

Cell phone radiation: Quebec collective action in view

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The Superior Court of Quebec authorizes the introduction of a request for action class action against Apple and Samsung alleging that these manufacturers withheld important information about the safety of their cell phones that emit radio frequency (RF) radiation [classified as "possibly carcinogenic"](#).

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The American Academy of Pediatrics has [repeatedly called for more protective RF exposure standards for children](#).

In a judgment rendered in Montreal on September 22, 2022, Judge Christian Immer awarded five plaintiffs the status of representatives of any person residing or domiciled in Quebec who purchased or rented an Apple or Samsung phone after September 11, 2016. Their request was filed in September 2019 by lawyer Charles O'Brien following revelations [made the previous month by the Chicago Tribune](#). According to tests carried out for this daily by an independent laboratory certified by the American government, most cell phones in real conditions of use (against the body) expose consumers to RF levels exceeding the limits permitted in the United States. A conclusion denied by the Federal Communications Commission (FCC), the American federal agency which regulates this area, after having repeated its tests. These, however, are made at a separation distance from a plastic mannequin filled with a liquid simulating that of an adult skull. The American Academy of Pediatrics has [repeatedly called for more protective RF exposure standards for children](#). Children are more sensitive to radiofrequency radiation that [penetrates deeper into their skull](#) than that of an adult.

Although he admits it will "almost certainly" be appealed by the defendants, Mr O'Brien believes the judgment is a major victory. "If it survives the appeal, it will give us the opportunity to defend claims on the merits, with evidence and expertise as well as legal argument. Furthermore,

this would mean that Apple and Samsung customers could sign up as class members. »

The judge determined the following main questions which will have to be dealt with collectively:

- Do human tissue Specific Absorption Rate (SAR) levels of RF radiation from Apple and Samsung phones exceed the Canadian limit and, if so, at what separation distance between the handset and the body ?
- Does this pose a risk or danger to the user?
- Does RF exposure, regardless of separation distance, cause health effects?
- Should the defendants have provided instructions to users to protect themselves against such a risk or danger, giving rise to their liability under the Quebec consumer protection law (LPC)?

- Is this an important fact overlooked, in violation of the CPA?
- Should the parent company and the Canadian division of Apple and those of Samsung pay punitive damages?

According to the federal Department of Innovation, Science and Economic Development (ISED), formerly Industry Canada, all the cell phones it tests respect the exposure limits permitted by Health Canada's Safety Code 6, similar to that of the FCC. However, these tests are among the most lax in the world, denounces Sharon Noble, the Canadian administrator of the French association [Alerte Phonegate](#) who got his hands on the results of ISED tests last March, two years after making a request for access to information.

“Thus [9 out of 10](#) mobile phones placed on the Canadian market have SAR levels well above the regulatory limits in real use (in contact or near contact with the body), she explains.

The ISDE protocol still allows phones to be tested up to 15 mm from the body. This judgment is therefore an important step forward which must very quickly be taken into account by the Canadian government in order to put in place regulations that truly protect the health of users of mobile phones and connected objects. »

In 2015, after reviewing the scientific literature on the subject, Health Canada concluded that only the thermal effects of RF emitted by cell phones were of concern and that the evidence is insufficient to link non-thermal effects (headaches, cancer and other symptoms or illnesses documented in hundreds [of studies](#)) to RF exposure. In 2011, the International Agency for Research on Cancer (IARC), affiliated with the World Health Organization, classified RF radiation as "possibly carcinogenic to humans." This classification is currently under review since [two major studies, carried out in 2018 on rats](#), concluded that cell phone radiation had caused the same type of tumor that regular cell phone users are at greater risk for in the long term.

According to Health Canada Safety Code 6, to avoid the thermal effect, the SAR (or absorbed radiation) in the head, neck and trunk should not exceed 1.6 watts per kilogram, calculated in the laboratory on 1 gram tissue. However, according to tests carried out in 2019 [for the Chicago Tribune](#), several models exceeded the US FCC SAR limit. “As in the case of the ANFR [French National Frequency Agency] tests, these were carried out at the FCC regulatory distance, between 10 and 15 mm from the skin, with the exception of Apple which has been testing its *iPhones* at 5mm since 2014, then also at a more realistic distance

corresponding to our uses (pockets) i.e. 2 mm, explains the [Alerte Phonegate site](#), which revealed in 2016 the excesses measured by the ANFR. *The iPhone 7*, however, tested at 5 mm, far exceeds the American regulatory limit (1.6 W/kg for 1 g of fabric), i.e. 2.6 W/kg, 2.81 W/kg, and finally 2.50 W /kg. Apple, contacted by [the Tribune], disputes the validity of the tests carried out and yet did not want to answer the journalist's questions. As for the three Samsung phones, the SAR levels are soaring with a measurement for the *Galaxy S8* of more than five times the regulatory limit (8.22W/kg); measurement taken at a distance of 2 mm from the skin. »

“We are delighted with this favorable judgment, which opens up important prospects for recognition of the Phonegate scandal in Canada but also in the rest of the world. For the moment it is Apple and Samsung who are concerned but we hope that in the long term, all manufacturers and mobile telephone operators will have to answer for their actions which have knowingly put the health of billions of users at risk. . »

- Dr Marc Arazi, French doctor founder of [Alerte Phonegate](#) and author of the book [Le Phonegate - All overexposed, all deceived, all endangered by our cell phones](#).

In August 2021, a [US federal court ordered the FCC](#) to justify why it ignores studies which demonstrate that exposure to RF is harmful at doses thousands of times below its thermal limits. As explained by Theodora Scarato, [director of the Environmental Health Trust](#), who won this victory against the FCC: "All cell phone and wireless device manufacturers [have warnings](#) which describe the minimum distance each device should be kept away from the body. Studies show that if cell phones and wireless devices come into contact with the body, RF exposure can exceed safety limits set by the U.S. government. Some phones have been found to violate these limits, reaching a threshold up to 11 times higher than these when the cell phone is pressed to the chest or body...

These distances only protect us from exposures that exceed government-set radiation limits, which have been obsolete since 1996. These separation distances do not protect us from biological effects. We recommend reducing and limiting exposures well beyond these FCC separation distances. A “safe” level of this radiation has not been documented by adequate research.

There are a large number of credible, peer-reviewed studies published in journals on the health risks posed by wireless radiation, including increased brain cancer, DNA damage, oxidative stress, immune dysfunction, developmental impairment

brain, reproductive damage, sleep changes, hyperactivity and memory damage.

A 2019 study concludes that the science is strong enough for doctors and health professionals to warn the public that having a cell phone near the body is dangerous and to support measures to reduce exposure to radiofrequencies. A 2021 study by Pusan National University, Korea, found that cell phone radiation can damage sperm and scientists conclude that "male cell phone users should work to reduce their use in order to protect the quality of their sperm. »

Another [request for collective action](#), introduced by Mr. O'Brien in 2017 on behalf of any living being injured by electromagnetic pollution, was rejected by the Superior Court which qualified it as frivolous.
