

CANADA

(Class Action)
SUPERIOR COURT

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-000921-185

F. PICCOLO

Petitioner

-vs.-

JOHNSON & JOHNSON INC., legal person duly constituted, having its head office at 88 McNabb Street, City of Markham, Province of Ontario, L3R 5L2

and

JOHNSON & JOHNSON, legal person duly constituted, having its head office at One Johnson & Johnson Plaza, City of New Brunswick, County of Middlesex, State of New Jersey, 08933-7001, U.S.A.

and

JOHNSON & JOHNSON CONSUMER COMPANIES, INC., legal person duly constituted, having its head office at 199 Grandview Road, City of Skillman, State of New Jersey, 08558-9418, U.S.A.

Respondents

**APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION
& TO APPOINT THE PETITIONER AS REPRESENTATIVE PLAINTIFF
(Art. 574 C.C.P and following)**

TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR PETITIONER STATES AS FOLLOWS:

I. GENERAL PRESENTATION



A) The Action

1. The Petitioner wishes to institute a class action on behalf of the following class, of which he is a member, namely:

- All persons residing in Canada who have purchased Aveeno Active Naturals Product(s) or any other group to be determined by the Court;

Alternately (or as a subclass)

- All persons residing in Quebec who have purchased Aveeno Active Naturals Product(s) or any other group to be determined by the Court;

2. “Aveeno Active Naturals Products” or simply “Aveeno Products” refers to any and all of the Respondents’ cosmetic and personal care products, which primarily consist of lotions, serums, soaps, cleansers, body washes, bath oils, treatments, sunscreens, balms, shampoos, conditioners, therapies, bath products, sprays, foams, scrubs, wipes, gels, ointments, and oils labelled as “Active Naturals”, a non-exhaustive list of examples being listed below¹:

- Aveeno Products Hydrocortisone Anti-Itch Cream
- Aveeno Products Absolutely Ageless Daily Moisturizer with Broad Spectrum SPF 30
- Aveeno Products Absolutely Ageless Eye Cream
- Aveeno Products Absolutely Ageless Intensive Renewal Serum
- Aveeno Products Absolutely Ageless Nourishing Cleanser
- Aveeno Products Absolutely Ageless Restorative Night Cream
- Aveeno Products Advanced Care Body Wash
- Aveeno Products Advanced Relief Cold Sore Treatment
- Aveeno Products Anti-Itch Concentrated Lotion
- Aveeno Products Baby Continuous Protection Sunblock Lotion SPF 55
- Aveeno Products Baby Sun Natural Protection SPF 30 Lotion Sunscreen
- Aveeno Products Baby Sun Natural Protection SPF 50 Lotion Sunscreen
- Aveeno Products Baby Sun Natural Protection SPF 50 Sunscreen Stick
- Aveeno Products Calamine & Pramoxine HCl Anti-Itch Cream
- Aveeno Products Clear Complexion BB Cream Broad Spectrum SPF 30, fair to light
- Aveeno Products Clear Complexion BB Cream Broad Spectrum SPF 30, medium
- Aveeno Products Clear Complexion Cleansing Bar
- Aveeno Products Clear Complexion Correcting Treatment
- Aveeno Products Clear Complexion Cream Cleanser

¹ The Respondents may discontinue offering some products and regularly introduces new products that are also falsely and/or misleadingly marketed with the use of the “Active Naturals” brand. The Respondents may also market additional substantially similar products of which the Petitioner is unaware at present. The Petitioner reserves the right to amend the list of products at issue as necessary.

- Aveeno Products Clear Complexion Daily Cleansing Pads
- Aveeno Products Clear Complexion Daily Moisturizer
- Aveeno Products Clear Complexion Foaming Cleanser
- Aveeno Products Continuous Protection Face SPF 30 Lotion Sunscreen
- Aveeno Products Continuous Protection SPF 45 Lotion Sunscreen
- Aveeno Products Continuous Protection SPF 55 Lotion Sunscreen
- Aveeno Products Continuous Protection SPF 55 Spray Sunscreen
- Aveeno Products Continuous Protection SPF 85 Lotion Sunscreen
- Aveeno Products Continuous Protection Sunblock Lotion Face, SPF 30
- Aveeno Products Continuous Protection Sunblock Spray, SPF 50
- Aveeno Products Continuous Protection Sunblock Spray, SPF 70
- Aveeno Products Continuous Radiance Moist Lotion
- Aveeno Products Creamy Moisturizing Oil
- Aveeno Products Daily Firming Body Lotion
- Aveeno Products Daily Moisturizer SPF 30
- Aveeno Products Daily Moisturizing Body Wash
- Aveeno Products Daily Moisturizing Body Yogurt Lotion
- Aveeno Products Daily Moisturizing Body Yogurt Wash
- Aveeno Products Daily Moisturizing Lotion
- Aveeno Products Daily Moisturizing Lotion with Broad Spectrum SPF 15
- Aveeno Products Daily Moisturizing Sheer Hydration Lotion
- Aveeno Products Eczema Therapy Hand Cream
- Aveeno Products Eczema Therapy Itch Relief Balm
- Aveeno Products Eczema Therapy Moisturizing Cream
- Aveeno Products Essential Moisture Lip Conditioner with SPF 15
- Aveeno Products Hydrosport Wet Skin Spray Sunscreen with Broad Spectrum SPF 30
- Aveeno Products Intense Relief Foot Cream
- Aveeno Products Intense Relief Hand Cream
- Aveeno Products Intense Relief Medicated Therapy
- Aveeno Products Intense Relief Overnight Cream
- Aveeno Products Intense Relief Repair Cream
- Aveeno Products Living Color Conditioner
- Aveeno Products Living Color Shampoo
- Aveeno Products Living Color Shine Enhancing Glaze
- Aveeno Products Men's After Shave Lotion
- Aveeno Products Men's Face Wash
- Aveeno Products Men's Shave Gel
- Aveeno Products Moisturizing Bar
- Aveeno Products Moisturizing Foaming Bath
- Aveeno Products Nourish+ Condition Leave-In Treatment
- Aveeno Products Nourish+ Dandruff Control Conditioner
- Aveeno Products Nourish+ Dandruff Control Shampoo
- Aveeno Products Nourish+ Moisturize Conditioner
- Aveeno Products Nourish+ Moisturize Shampoo
- Aveeno Products Nourish+ Revitalize Conditioner



- Aveeno Products Nourish+ Shine Conditioner
- Aveeno Products Nourish+ Shine Shampoo
- Aveeno Products Nourish+ Soothe Shampoo
- Aveeno Products Nourish+ Strengthen Conditioner
- Aveeno Products Nourish+ Strengthen Shampoo
- Aveeno Products Nourish+ Style Curl Defining Spray
- Aveeno Products Nourish+ Style Gel Crème
- Aveeno Products Nourish+ Style Hairspray
- Aveeno Products Nourish+ Style Smooth Crème
- Aveeno Products Nourish+ Style Volumize Foam
- Aveeno Products Nourish+ Volumize Shampoo
- Aveeno Products Positively Ageless Complete Anti-Aging System
- Aveeno Products Positively Ageless Daily Exfoliating Cleanser
- Aveeno Products Positively Ageless Eye Serum
- Aveeno Products Positively Ageless Firming Body Lotion
- Aveeno Products Positively Ageless Lifting & Firming Eye Cream
- Aveeno Products Positively Ageless Lifting & Firming Moisturizer
- Aveeno Products Positively Ageless Lifting & Firming Night Cream
- Aveeno Products Positively Ageless Reconditioning Night Cream
- Aveeno Products Positively Ageless Restructuring Treatment Cream
- Aveeno Products Positively Ageless Resurfacing Scrub
- Aveeno Products Positively Ageless Skin Strengthening Body Cream
- Aveeno Products Positively Ageless Skin Strengthening Hand Cream
- Aveeno Products Positively Ageless Sunblock Lotion Face SPF 90
- Aveeno Products Positively Ageless Sunblock Lotion, Face SPF 70
- Aveeno Products Positively Ageless Sunblock Spray, SPF 50
- Aveeno Products Positively Ageless Youth Perfecting Moisturizer Broad Spectrum SPF 30
- Aveeno Products Positively Nourishing Antioxidant Infused Body Wash with White Peach and Ginger
- Aveeno Products Positively Nourishing Calming Body Lotion
- Aveeno Products Positively Nourishing Calming Body Wash
- Aveeno Products Positively Nourishing Comforting Whipped Souffle
- Aveeno Products Positively Nourishing Energizing Body Lotion
- Aveeno Products Positively Nourishing Energizing Body Wash
- Aveeno Products Positively Nourishing Hydrating Body Wash
- Aveeno Products Positively Nourishing Invigorating Body Wash
- Aveeno Products Positively Nourishing Purifying Body Wash
- Aveeno Products Positively Nourishing Refreshing Body Wash
- Aveeno Products Positively Nourishing Smoothing Body Wash
- Aveeno Products Positively Nourishing Soothing Body Wash
- Aveeno Products Positively Nourishing Ultra Hydrating Whipped Souffle
- Aveeno Products Positively Radiant 60 Second In-Shower Facial
- Aveeno Products Positively Radiant Anti-Wrinkle Cream
- Aveeno Products Positively Radiant Brightening Cleanser
- Aveeno Products Positively Radiant Daily Cleansing Pads



- Aveeno Products Positively Radiant Daily Moisturizer Broad Spectrum SPF 15
- Aveeno Products Positively Radiant Daily Moisturizer Broad Spectrum SPF 30
- Aveeno Products Positively Radiant Exfoliating Body Wash
- Aveeno Products Positively Radiant Eye Brightening Cream
- Aveeno Products Positively Radiant Intensive Night Cream
- Aveeno Products Positively Radiant Makeup Removing Wipes
- Aveeno Products Positively Radiant Moisturizing Lotion
- Aveeno Products Positively Radiant Overnight Hydrating Facial
- Aveeno Products Positively Radiant Skin Brightening Daily Scrub
- Aveeno Products Positively Radiant Targeted Tone Corrector
- Aveeno Products Positively Radiant Tinted Moisturizer Broad Spectrum SPF 30, fair to light
- Aveeno Products Positively Radiant Tinted Moisturizer Broad Spectrum SPF 30, medium
- Aveeno Products Positively Rejuvenating Serum
- Aveeno Products Positively Smooth Facial Moisturizer
- Aveeno Products Positively Smooth Moisturizing Lotion
- Aveeno Products Positively Smooth Shave Gel
- Aveeno Products Positively Smooth Shower and Shave Cream
- Aveeno Products Protect + Hydrate Lotion Sunscreen with Broad Spectrum SPF 50 for Face
- Aveeno Products Protect+ Hydrate Lotion Sunscreen with Broad Spectrum SPF 30
- Aveeno Products Protect+ Hydrate Lotion Sunscreen with Broad Spectrum SPF 70
- Aveeno Products Pure Renewal Conditioner
- Aveeno Products Pure Renewal Dry Shampoo
- Aveeno Products Pure Renewal Shampoo
- Aveeno Products Skin Relief Body Wash
- Aveeno Products Skin Relief Gentle Scent™ Body Wash
- Aveeno Products Skin Relief Gentle Scent™ Lotion
- Aveeno Products Skin Relief Hand Cream
- Aveeno Products Skin Relief Healing Ointment
- Aveeno Products Skin Relief Moisture Repair Cream
- Aveeno Products Skin Relief Overnight Cream
- Aveeno Products Skin Relief Shower & Bath Oil
- Aveeno Products Skin Relief24hr Moisturizing Lotion
- Aveeno Products Smart Essentials Daily Detoxifying Scrub
- Aveeno Products Smart Essentials Daily Nourishing Moisturizer Broad Spectrum SPF 30
- Aveeno Products Smart Essentials Nighttime Moisture Infusion
- Aveeno Products Soothing Bath Treatment
- Aveeno Products Stress Relief Body Wash
- Aveeno Products Stress Relief Foaming Bath



- Aveeno Products Stress Relief Moisturizing Lotion
 - Aveeno Products Sun Hydrosport Lotion Sunscreen SPF 85
 - Aveeno Products Sun Hydrosport SPF 30 Spray Sunscreen
 - Aveeno Products Sun Hydrosport SPF 50 Sunblock Spray
 - Aveeno Products Sun Hydrosport SPF 85 Sunblock Spray
 - Aveeno Products Sun Natural Protection SPF 50 Lotion Sunscreen
 - Aveeno Products Sun Protect & Hydrate SPF 30 Lotion Sunscreen
 - Aveeno Products Sun Protect & Hydrate SPF 50 Face Lotion Sunscreen
 - Aveeno Products Sun Protect & Hydrate SPF 70 Lotion Sunscreen
 - Aveeno Products Therapeutic Shave Gel
 - Aveeno Products Ultra-Calming Daily Moisturizer Broad Spectrum SPF 15
 - Aveeno Products Ultra-Calming Foaming Cleanser
 - Aveeno Products Ultra-Calming Makeup Removing Wipes
 - Aveeno Products Ultra-Calming Night Cream
 - Aveeno Products Ultra-Calming Shave Gel
 - Aveeno Baby Calming Comfort Bath
 - Aveeno Baby Daily Moisture Lotion
 - Aveeno Baby Eczema Therapy Moisturizing Cream
 - Aveeno Baby Eczema Therapy Nighttime Balm
 - Aveeno Baby Eczema Therapy Soothing Bath Treatment
 - Aveeno Baby Essential Moisture Shampoo
 - Aveeno Baby Soothing Relief Creamy Wash
 - Aveeno Baby Soothing Relief Diaper Rash Cream
 - Aveeno Baby Soothing Relief Moisturizing Cream
 - Aveeno Baby Sun Continuous Protection Sensitive Skin Lotion Sunscreen SPF 50
 - Aveeno Baby Sun Continuous Protection Sensitive Skin SPF 50 Sunscreen Stick
 - Aveeno Baby Wash & Shampoo;
3. The Aveeno Products were falsely and prominently marketed, advertised, promoted, packaged, labelled, sold, and/or represented as “Active Naturals”; a description which misrepresents to consumers that the ingredients inside the packaging are natural, when in fact, the Aveeno Products are not natural and actually contain numerous unnatural, synthetic, and potentially harmful ingredients (depending on the quantity);
 4. In addition to the utilization of the “Active Naturals” representation, the Respondents’ marketing materials for the Aveeno Products are littered with more representations (in words and design) that the ingredients are all or almost entirely natural, including the product packaging itself, their website(s), through their social media presence and through advertisements;
 5. Contrary to the Respondents’ representations, the Aveeno Active Naturals Products are formulated and composed with a vast amount of unnatural, synthetic, and potentially harmful ingredients (depending on the quantity);



6. By reason of their actions and omissions, the Respondents induced consumers into purchasing Aveeno Products that do not live up to their reasonable expectations, thereby causing the Petitioner and the members of the Class to suffer economic damages, upon which they are entitled to claim;

B) The Respondents

7. Respondent Johnson & Johnson Inc. (“J&J Canada”) is a Canadian corporation with its head office in Markham, Ontario. It is a subsidiary of Respondent Johnson & Johnson that conducts business throughout Canada, including within the province of Quebec, the whole as appears more fully from a copy of an extract from the *Registraire des entreprises* and from a copy of an extract from Corporations Canada, produced herein *en liasse* as **Exhibit R-1**;
8. Respondent Johnson & Johnson (“J&J”) is an American corporation with its head office in New Brunswick, New Jersey. It is a leading manufacturer and distributor of personal care products including the Aveeno Products. It is the registrant of the website domain name “aveeno.ca”, which was created on November 9, 2000. It is the current owner and registrant of *inter alia*, the following Canadian trade-marks:
- Active Naturals (word) (TMA677609), which was registered on November 24, 2006,
 - Aveeno Products (design) (TMA1238443), which was registered on November 20, 2008,
 - Aveeno Plant Design #5 (design) (TMA793313), which was registered on March 18, 2011,
 - Aveeno Plant Design #6 (design) (TMA793317), which was registered on March 18, 2011,
 - Aveeno Plant Design #7 (design) (TMA793316), which was registered on March 18, 2011,
 - Aveeno Plant Design #8 (design) (TMA797105), which was registered on May 10, 2011,
 - Aveeno Plant Design #9 (design) (TMA797104), which was registered on May 10, 2011,
 - Aveeno Kids Design (design) (TMA831086), which was registered on September 4, 2012,
 - Aveeno Plant Design #1 (design) (TMA843489), which was registered on February 15, 2013,
 - Aveeno Plant Design #3 (design) (TMA843657), which was registered on February 18, 2013,
 - Aveeno Plant Design #10 (design) (TMA853229), which was registered on June 12, 2013,
 - Aveeno Wheat Design (design) (TMA851650), which was registered on June 24, 2013,
 - Aveeno Leaves Flowers Design (design) (TMA880670), which was registered on June 23, 2014,

- Aveeno Aqua Flowers Design (design) (TMA894206), which was registered on January 16, 2015,

The whole as appears more fully from a copy of an extract from the WHOis website at www.whois.net and from a copy of said trade-marks from the CIPO database, produced herein *en liasse* as **Exhibit R-2**;

9. Respondent Johnson & Johnson Consumer Companies, Inc. (“J&J Consumer”) is an American corporation with its head office in Skillman, New Jersey. It is a subsidiary of Respondent J&J that focuses mainly in the area of newborns, babies, toddlers and mothers;
10. All Respondents are either directly or indirectly responsible for manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Products as natural throughout Canada, including within the province of Quebec;
11. Given the close ties between the Respondents and considering the preceding, all Respondents are solidarily liable for the acts and omissions of the other;

C) The Situation

I. The Cosmetic and Personal Care Industry – an Overview

12. Cosmetic and personal care products are items that are used to maintain or increase one’s physical appearance and/or personal hygiene. These products can include soaps, shampoos, conditioners, deodorants, bath products, lotions and make-up. Cosmetic and personal care businesses, such as the Respondents, typically manufacture a line of products and sell these products through distribution to retail outlets or directly to consumers, the whole as appears more fully from a copy of an extract from the University of British Columbia website at <https://sba.ubc.ca> entitled “Industry Overview: Cosmetic and Personal Care Manufacturing” last updated May 12, 2016, produced herein as **Exhibit R-3**;
13. As a whole, the overall profit outlook for the Soap, Cleaning Compound and Toilet Preparation Manufacturing industry is on a positive up-swing. After an average drop of -4.8% annually from 2004 to 2012, according to Canadian Industry Statistics, net revenues have increased by 27% in just the last year alone. The highest costs in the manufacturing of personal care and beauty products are in raw materials and equipment, utilities, transportation, and labour wages. Thus, the profit margins of the industry can vary according to the fluctuation in material costs (Exhibit R-3);
14. It is expected that in the coming years, consumers will be more likely to try looking for products that promise multiple benefits and that are made from natural ingredients. According to a study of Canadian shoppers in Cosmetics Magazine, the three most important elements of their trust in a company were “responding to product issues”, “providing product information”, and “being transparent about how

products are made”. Consumers are not only concerned with the effect ingredients may have on their body, but also how chemical additives in products may affect the environment, the whole as appears more fully from a copy of the Cosmetics Magazine article entitled “Study: Inside the Minds of Canadian Shoppers” undated and from a copy of the TFO Canada article entitled “Cosmetics Study: Inside the Minds of Canadian Shoppers” dated June 1, 2015, produced herein *en liasse* as **Exhibit R-4**;

15. The research director attributes this focus on transparency to an increase in consumer awareness when it comes to beauty products: “Consumers want to know about, and feel comfortable with, what goes into their products. They understand that sometimes there will be issues with products or ethical concerns, but they expect brands to stand behind their products and take responsibility for their actions” (Exhibit R-4);
16. As part of the study (Exhibit R-4), the beauty brands “most trusted by Canadians” in 2015 included Aveeno for body moisturizers;
17. In recent years, cosmetic and personal care products have been increasingly linked with personal wellness. Consumers are looking for a holistic package when it comes to looking and feeling good. This means that the personal care products they put on their skin must be as natural as the organic food they eat and as youth-preserving as their exercise routine (Exhibit R-3);
18. Skin care is expected to post the highest retail value sales and growth over the next three years in Canada with an estimated \$2.6 billion by 2020. Canadians are willing to spend more per product based on characteristics such as being composed of natural ingredients. This represents an important recent shift in lifestyle, purchasing patterns and demo lifestyle, retail and demographics in Canada. These larger changes reinforce the popularity of premium skin care products that offer natural ingredients, the whole as appears more fully from a copy of the Euromonitor International article entitled “Canadian Skin Care Bucks Trends and Drives Growth in Beauty and Personal Care” dated November 20, 2016, produced herein as **Exhibit R-5**;
19. Canadian consumers are turning to premium skin care products for their higher quality natural ingredients as part of larger lifestyle trends that emphasize wellbeing and the importance of natural foods. This search for ingredients has led premium skin care products to represent about 40% of the Canadian skin care market. Ingredients have also become critical in advertising for premium products, as many brands use the potential benefits and authenticity of their ingredients to attract consumers (Exhibit R-5);
20. According to a statistical study on Canadian consumer attitudes towards personal care and beauty products, 49% of Canadians try to buy products that are as natural as possible and 48% of Canadians consider price as the most important factor in their purchasing decision, thus, both natural ingredients and price play an important



role in a purchasing decision, the whole as appears more fully from a copy of the Statista article entitled “Attitudes towards personal care and beauty products among consumers in Canada as of January 2016”, produced herein as **Exhibit R-6**;

21. According to a statistical study on what influences Canadian beauty product purchasing decisions, consumers rely primarily on in-store displays, product info, and store associates (25%), retail flyers (20%), word of mouth recommendations (17%), and brand or manufacturer websites (9%), the whole as appears more fully from a copy of the Statista article entitled “Leading sources of information for beauty product purchase decisions in Canada as of January 2014”, produced herein as **Exhibit R-7**;
22. Consumers, including the Petitioner and the Class Members, frequently rely on label representations and information in making purchase decisions relating to personal care products;

II. “Natural Products” – Defined

23. Generally, a natural product is a product that is produced by a living organism – that is, found in nature. Products dubbed as “natural” are typically viewed by the public as good and wholesome, the whole as appears more fully from a copy of an extract from Webster’s Revised Unabridged Dictionary and from a copy of the Nature Chemical Biology editorial entitled “All natural” dated 2007, produced herein *en liasse* as **Exhibit R-8**;
24. Natural products include a wide array of consumer goods that continue to grow in popularity each year. These products include natural and organic foods, dietary supplements, pet foods, health and beauty products, “green” cleaning supplies and more. Generally, natural products are considered those formulated without artificial ingredients and that are minimally processed, the whole as appears more fully from a copy of an extract from the Natural Products Foundation website at www.naturalproductsfoundation.org entitled “About Us”, produced herein as **Exhibit R-9**;
25. Natural products are produced by marine organisms, bacteria, fungi, and plants. The term encompasses complex extracts from these producers, but also the isolated compounds derived from those extracts. It also includes vitamins, minerals and probiotics, the whole as appears more fully from a copy of the National Center for Complementary and Integrative Health’s webpage entitled Natural Products Research – Information for Researchers last modified August 23, 2017, produced herein as **Exhibit R-10**;
26. Growing concerns over the use of harmful chemicals in the production of unnatural products, together with a desire for more healthy lifestyles, have spurred the popularity of natural products. One of the fastest growing markets for natural products is that of natural personal care products. Consumers are willing to pay



more for natural personal care products such as skin care, hair care, and body care in order to avoid harmful chemicals in favour of more natural ingredients;

27. The Respondents take advantage of this segment of consumers by manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing Aveeno Products as containing all or almost entirely natural ingredients, using their brand name “Active Naturals”, when in fact, the Aveeno Products contain significant amounts of unnatural, synthetic, and potentially harmful ingredients (depending on the quantity);
28. A shampoo may be termed natural if it does not contain ingredients like sodium lauryl sulfate, parabens, silicone and other chemicals which have been generally determined to be harmful to hair and instead use naturally occurring ingredients such as oils, botanical or fruit extracts, and herbal extracts as the primary active ingredients, the whole as appears more fully from a copy of the Healthy Hair Plus webpage titled “What Makes a Shampoo Natural?”, produced herein as **Exhibit R-11**;
29. In the United States, the “Natural Products Association” developed the “Natural Standard and Certification for Personal Care Products”, a set of guidelines that dictate whether a product may be deemed truly “natural”. The standard for certification as a “natural” personal care product includes (i) that it be made up of only, or at least almost only, natural ingredients and be manufactured with appropriate processes to maintain ingredient purity, (ii) the avoidance of any ingredient with a suspected human health risk, (iii) no animal testing, and (iv) the use of biodegradable ingredients and environmentally sensitive packaging. All products labelled or branded as “natural” must be made with *at least 95%* natural ingredients – excluding water and contain only synthetic ingredients (the “NPA Natural Standard”), the whole as appears more fully from a copy of an extract from the Natural Products Association’s website at www.npainfo.org, from a copy of the NPA Standard and Certification for Personal Care Products, and from a copy of the NPA Illustrative “Positive List” of Ingredients, produced herein *en l’iasse* as **Exhibit R-12**;
30. Under the Natural Standard for Personal Care Products, allowed ingredients come from or are made from a renewable resource found in nature (flora, fauna, mineral), with absolutely no petroleum compounds. For each ingredient, the substance must be listed as generally recognized as safe (GRAS) by the United States Food and Drug Administration (the “US FDA”) when used in accordance with Good Manufacturing Practices (GMP) and contain no residues of heavy metals or other contaminants in excess of tolerances set by the US FDA or the United States Environmental Protection Agency (the “US EPA”) or has been reviewed using criteria in this standard (Exhibit R-12);
31. Ingredients prohibited under the Natural Standard for Personal Care Products include synthetic silicone ingredients, synthetic fragrances, synthetic preservatives not otherwise specifically allowed, compounds with “ethoxylate”, “PEG”, “PPG” or



the suffix “-eth” in the ingredient name, compounds with “sarcosinate” in the ingredient name, compounds with “MEA, “DEA” OR “TEA” in the ingredient name, compounds with “taurate” in the ingredient name, compounds with “sultaine” in the ingredient name, and compounds with “Sulfosuccinate” in the ingredient name. More specifically, the following is a list of ingredients that are prohibited by the Natural Standard for Personal Care Products (Exhibit R-12):

- Ammonium Lauryl Sulfate
- Amodimethicone
- Behentrimonium Methosulfate
- Butylene glycol
- Carbomer
- Ceteareth-20
- Cetrimonium Chloride
- Coco DEA
- Cocoamidopropyl Betaine
- Cyclopentasiloxane
- Dimethicone
- Disodium Cocoamphodiacetate
- EDTA
- Ethylene glycol
- Glycereth-7 Cocoate
- Isoceteth 20
- Isopropyl Palmitate
- Lauramide MEA
- Lauryl DEA
- Methoxycinnamate
- Methylisothiazolinone
- Olefin Sulfonate
- Oleyl Betaine
- Parabens (methyl, propyl, butyl, etc.)
- PEG-150 Distearate
- PEG-7 Glyceryl Cocoate
- Polyquaternium 10
- Polysorbate
- Sodium Cocoyl Sarcosinate
- Sodium Hydroxymethylglycinate
- Sodium Laureth Sulfate
- Sodium Lauroyl Sarcosinate
- Sodium Carboxylate
- Sodium Lauryl Sulfate
- Sodium Lauryl Sulfoacetate
- Sodium Myreth Sulfate
- Soyamidopropalkonium Chloride



- Stearamidopropyl
32. In Canada, personal care or cosmetic products are governed by Health Canada under the *Food and Drugs Act*, RSC 1985, c F-27 (hereinafter the “*Food and Drugs Act*”), the *Cosmetic Regulations* (C.R.C., c. 869), and the *Guidelines for Cosmetic Advertising and Labelling Claims* which was revised in February 2006 (hereinafter the “Guidelines”). The *Food and Drugs Act* and the *Cosmetic Regulations* focus more on sanitation and product safety, while the Guidelines focus more on advertising and labelling practices, the whole as appears more fully from a copy of Health Canada’s *Guidelines for Cosmetic Advertising and Labelling Claims*, produced herein as **Exhibit R-13**;
33. Section 16 of the *Foods and Drugs Act* stipulates that cosmetics manufactured, imported, or offered for sale in Canada must be safe for use² and section 24 of the *Cosmetic Regulations* provides that cosmetic labelling must indicate avoidable hazards associated with the use of a product³;
34. Under the Guidelines (Exhibit R-13), the Respondents’ practices of advertising and labelling the Aveeno Products as natural is an “Unacceptable Claim” as the “net impression” that they are natural is misleading;
35. Health Canada maintains a “Cosmetic Ingredient Hotlist”, a science-based document used to communicate to manufacturers and others that certain substances may be prohibited or restricted for use in cosmetics. Although the Cosmetic Ingredient Hotlist is updated periodically it is not meant to be exhaustive, merely indicative of the general idea that cosmetics should not contain potentially hazardous ingredients and as such, the industry must not wholly rely on it. It is the manufacturer’s and importer’s responsibility to be aware of the risks relating to the substances in the cosmetics that they sell and this includes obligations to monitor scientific literature and to take appropriate corrective measures, the whole as appears more fully from a copy of an extract from the Government of Canada’s website at www.canada.ca, produced herein as **Exhibit R-14**;

² Prohibited sales of cosmetics

16 No person shall sell any cosmetic that

- (a) has in or on it any substance that may cause injury to the health of the user when the cosmetic is used,
- (i) according to the directions on the label or accompanying the cosmetic, or
- (ii) for such purposes and by such methods of use as are customary or usual therefor;

...

³ 24 (1) The label of a cosmetic that presents an avoidable hazard must include directions for safe use.

(2) For the purpose of subsection (1), avoidable hazard means a threat of injury to the health of the user of a cosmetic that can be

(a) predicted from the cosmetic’s composition, the toxicology of its ingredients and the site of its application;

(b) reasonably anticipated during normal use; and

(c) eliminated by specified limitations on the usage of the cosmetic.

36. The Cosmetic Ingredient Hotlist list several ingredients that are either prohibited for use or restricted for use, which are present in the Aveeno Active Naturals Products (either as ingredients or as ingredients in the production of the final ingredient), including, but not limited to ethylene oxide and phenol (prohibited for use) and formaldehyde, glycerin, methylisothiazolinone, and urea, the whole as appears more fully from a copy of the Cosmetic Ingredient Hotlist dated 2015, produced herein as **Exhibit R-15**;
37. The Respondents' conduct of manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural, when in reality, they contain unnatural, synthetic, and potentially harmful ingredients (depending on the quantity), constitutes unlawful, unfair, and deceptive conduct, is likely to deceive members of the public, is oppressive, unscrupulous, and/or substantially injurious to consumers, and harms the natural product industry;
38. As such, the Respondents' manufacturing, distribution, marketing, advertising, promotion, packaging, labelling, selling and representation practices violate the *Consumer Protection Act*, CQLR c P-40.1 (hereinafter the "CPA")⁴, the *Competition Act*, R.S.C. 1985, c C-34 (hereinafter the "Competition Act"), and the *Consumer Packaging and Labelling Act*, R.S.C. 1985, c. C-38 (hereinafter the "Consumer Packaging and Labelling Act");
39. Attached hereto are three (3) useful charts, in both French and English, outlining the specific articles of the CPA⁵, the *Competition Act*⁶, and the *Consumer Packaging and Labelling Act*⁷ that the Respondents' advertising, marketing, promotional, labelling, selling and representation practices were and are in violation of, produced herein *en liasse* as **Exhibit R-16**;

III. The Respondents' Marketing and the Aveeno Product Ingredients

40. In the year 2000, the Respondents launched their "ACTIVE NATURALS® INSTITUTE™", an innovation centre that supposedly supports their

⁴ While the CPA applies only in Quebec, other Canadian provinces have similar consumer protection legislation including, but not limited to: the *Business Practices and Consumer Protection Act*, SBC 2004, c 2 including ss. 4-9, 171 & 172 [British Columbia]; the *Fair Trading Act*, RSA 200, c F-2 including ss. 5-7, 7.2, 7.3, 9 & 13 [Alberta]; The *Consumer Protection and Business Practices Act*, SS 2014, c. C-30.2, including ss. 6-9, 26-28, 35-38 & 93 [Saskatchewan]; *The Business Practices Act*, CCSM, c B120 including ss. 2-9 & 23 [Manitoba]; the *Consumer Protection Act, 2002*, SO 2002, c 30, Schedule A, including ss. 14, 15, 17, 18 & 100 [Ontario]; the *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1 and the *Trade Practices Act*, RSNL 1990, c T-7 at Sections 5-7 & 14 [Newfoundland and Labrador]; the *Consumer Product Warranty and Liability Act*, SNB 1978, c 18.1, including ss. 4, 10-13, 15-18, 23 & 27 [New Brunswick]; the *Consumer Protection Act*, RSNS 1989, c 92, including ss. 26-29 [Nova Scotia]; the *Business Practices Act*, RSPEI 1988, c B-7, including ss. 2-4 [Prince Edward Island]; the *Consumers Protection Act*, RSY 2002, c 40, including ss. 58 & 86 [Yukon]; the *Consumer Protection Act*, RSNWT 1988, c C-17, including ss. 70 & 71 [Northwest Territories]; and the *Consumer Protection Act*, RSNWT (Nu) 1988, c C-17, including ss. 70 & 71 [Nunavut].

⁵ Namely, ss. 41, 215, 216, 218-221, 228, 239, 253, 270 & 272.

⁶ Namely, ss. 36 & 52.

⁷ Namely, arts. 7 & 9.

“commitment to providing products with safe and effective natural ingredients”. The Respondents further represent the following:

“Our Mission

It’s our mission to help every woman feel naturally beautiful in the way she looks and in the way she lives her life. So we strive to inspire you to discover natural beauty and wellness, and we work hard to provide products made with the most natural and effective ingredients.

...

The makers of AVEENO® only select the finest ingredients found in nature with powerful benefits to become ACTIVE NATURALS® ingredients, and turn them into innovative, effective skin and hair care products. In fact, these formulas are so effective, they’re recommended by dermatologists, pediatricians and beauty professionals across Canada.

ACTIVE NATURALS® Ingredients.

We are 100% committed to finding natural ingredients that deliver real skin and hair care benefits.

That’s why our scientists follow the highest standards of ingredient selection, formulation and manufacturing, and carry out procedures to retain the strength and purity of the natural ingredients we use. In addition to that, we conduct extensive clinical tests to ensure the efficacy, mildness and safety of each ingredient.

So when you see an ACTIVE NATURALS® ingredient listed on your favourite AVEENO® lotion, cleanser or shampoo, you’ll know it came from a good place. And you can feel confident that the magic of each natural ingredient will help nurture and transform the look of your skin and hair for beautiful results.

...

Today, we partner with leading health professionals and scientists in the discovery of ACTIVE NATURALS ingredients. Derived from nature, uniquely formulated, and scientifically shown to improve skin and hair for a healthy look. These exclusive formulas have been trusted and recommended by pediatricians and dermatologists for over 60 years.”

The whole as appears more fully from a copy of an extract from the Respondents’ website at www.aveeno.ca entitled “About AVEENO®”, produced herein as **Exhibit R-17**;

41. Although the Aveeno Products contain a vast amount of unnatural, synthetic, and potentially harmful ingredients (depending on the quantity), the Respondents

selected the brand name “Active Naturals” to convey the idea that their Aveeno Products are composed of natural ingredients in order to exploit the growing consumer demand for natural products and to reap the benefits from the significant price premium that consumers are willing to pay;

42. The Respondents engaged and continue to engage in a widespread, uniform marketing campaign using the Aveeno Active Naturals product packaging, their websites www.aveeno.ca, www.aveeno.com, and various advertisements to mislead consumers about the nature of the ingredients in their Aveeno Active Naturals Products;
43. The Respondents manufacture, distribute, market, advertise, promote, package, label, and sell several types of personal care products under the Aveeno brand that are widely consumed by both children and adults;
44. As depicted below, in order to ensure that consumers believed that the Aveeno Products were composed of natural ingredients, the Respondents placed the label “Active Naturals” prominently on the front of the Aveeno Products in capital letters, directly under the word “AVEENO” and littered their advertising materials with references to the alleged natural nature of the Aveeno Product ingredients. The Respondents use the representation “Active Naturals” pretty much everywhere, including on their websites in connection with Aveeno Products;







45. Despite the Respondents' representations to the contrary, Aveeno Products contain ingredients which the Respondents know are not natural – the Aveeno Products contain unnatural, synthetic, and potentially harmful ingredients (depending on the quantity);
46. For example, Aveeno Active Naturals Therapeutic Shave Gel contains synthetic, unnatural, and other potentially hazardous ingredients (depending on the quantity) including, but not limited to the following:
- a) Glycerin – There are two types of glycerin; natural and synthetically derived. If glycerin is from a natural source it will often be indicated on the label (no such indication appears on the Aveeno Product labelling). It is produced through various extensive means using synthetic and/or hazardous substances, including epichlorohydrin, sodium hydroxide, allyl alcohol, hydrogen peroxide, and peracetic acid. When derived synthetically, petrochemicals (derived from petroleum) undergo chemical synthesis to produce glycerin. Petrochemicals have been shown to pose health risks, including lowering sperm count. In addition, it is an irritant and may be carcinogenic and appears on the Cosmetic Ingredient Hotlist (Exhibit R-15),
 - b) Benzaldehyde – Benzaldehyde is a synthetic substance that can affect humans when either breathed in or when passing through skin – it is harmful if absorbed into the skin, is an irritant, and is a possible cancer hazard,
 - c) Triethanolamine – Triethanolamine is an amine produced by reacting ethylene oxide (considered highly toxic and is a prohibited item on the Cosmetic

Ingredients Hotlist – Exhibit R-15) with ammonia (another known toxin). Triethanolamine is a fragrance ingredient, pH adjuster, surfactant and emulsifying agent. The Cosmetic Ingredient Review has placed restrictions on this ingredient regarding the concentration amounts. There is strong evidence showing this ingredient to be an immune and respiratory toxicant or allergen, meaning there are health problems ranging from allergic reactions to an incapacity to fight disease and repair damaged tissue in the body. Triethanolamine is listed on Environment Canada's Domestic Substances List (Exhibit R-26),

- d) Phenoxyethanol – The US FDA has warned that phenoxyethanol is harmful. Phenoxyethanol starts out as phenol (an ingredient on the Cosmetic Ingredient Hotlist – Exhibit R-15), a toxic white crystalline powder that is created from benzene (a known carcinogen and an ingredient on the Cosmetic Ingredient Hotlist – Exhibit R-15) and then is treated with ethylene oxide (also a known carcinogen and an ingredient on the Cosmetic Ingredient Hotlist – Exhibit R-15) and an alkali. Japan has restricted phenoxyethanol as an ingredient in all cosmetics. Most countries ban its use to only 1% concentration. Studies have proven that phenoxyethanol is an irritant to the skin and eyes and is toxic to the kidneys, nervous system, and liver and repeated long-term exposure can cause organ damage,
- e) Methylparaben, propylparaben, ethylparaben – Parabens are esters of p-hydroxybenzoic acid (PHBA). Parabens are prepared by esterifying PHBA with the corresponding alcohol (i.e., methyl alcohol, propyl alcohol, or ethyl alcohol) in the presence of an acid catalyst, such as sulfuric acid, and an excess of the specific alcohol. The acid is then neutralized with caustic soda, and the product is crystallized. Parabens mimic estrogen and can act as potential hormone (endocrine) system disruptors and may potentially influence the development of malignant melanoma,

The whole as appears more fully from copies of extracts from the Environmental Working Group's (EWG)'s Skin Deep Cosmetics Database website at www.ewg.org, from a copy of the Livestrong article entitled "Glycerin for Dry Hair" dated July 18, 2017, from a copy of the Chemical Land article entitled "Benzaldehyde" undated, from a copy of the Integrity Botanicals article entitled "Why Phenoxyethanol doesn't belong in your products" dated February 19, 2017, from a copy of the Campaign for Safe Cosmetics article entitled "Parabens" undated, from a copy of the Priority Substances List Assessment Report for Ethylene Oxide dated 2001, and from a copy of the Priority Substances List Assessment Report for Phenol dated 2000, produced herein *en l'iasse* as **Exhibit R-18**;

- 47. The Aveeno Active Naturals Creamy Moisturizing Oil similarly contains many unnatural, synthetic, and other potentially hazardous ingredients (depending on the quantity) including, but not limited to the following:

- a) PEG-100 Stearate – Peg-100 Stearate is a synthetic polymer composed of PEG (polyethylene glycol) and stearic acid,
- b) Methylparaben, propylparaben, ethylparaben,
- c) Xanthan Gum – Xanthan gum is a polysaccharide secreted by the bacterium *Xanthomonas campestris*. It is produced by the fermentation of glucose, sucrose, or lactose. After a fermentation period, the resulting polysaccharide is precipitated from a growth medium with isopropyl alcohol, dried, and ground into a fine powder. Later, it is added to a liquid medium to form the gum. The United States Department of Agriculture recognizes xanthan gum as a synthetic ingredient,
- d) BHT or Butylated Hydroxytoluene – BHT is a potent synthetic antioxidant, an irritant, an endocrine disruptor, and a potential cancer-causing ingredient. BHT is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),
- e) Diazolidinyl Urea – Diazolidinyl urea is a formaldehyde releaser used in cosmetic products as a preservative that the International Agency for Research on Cancer has re-classified to its highest toxic class, IARC 1 (known human carcinogen). Formaldehyde, which is an ingredient on the Cosmetic Ingredient Hotlist – Exhibit R-15, is classified as a probable human carcinogen by the US EPA, which provides sufficient evidence that formaldehyde causes nasopharyngeal cancer in humans by the International Agency for Research on Cancer. Formaldehyde is listed as the Allergic Contact Dermatitis’ allergen of the year in 2015. The Organic Consumers Association ranks diazolidinyl urea as the most important synthetic ingredient to avoid,
- f) Fragrance – The synthetic fragrances used in the Creamy Moisturizing Oil can have as many as 200 ingredients. According to the Environmental Working Group, the average fragrance contains about 14 secret chemicals that aren’t listed on the label, many of which are linked to hormone disruption and allergic reactions, as well as about 80% of them not being tested for human safety in personal care products. There is no way to know what the chemicals are, since the label simply says “fragrance.” Some of the problems caused by these chemicals are headaches, dizziness, rash, hyperpigmentation, violent coughing, vomiting, and skin irritation. Artificial fragrances, which frequently contain phthalates, can also trigger allergic reactions and other health problems. EWG found that about 75 percent of products that list fragrance contain the hormone disrupting chemical, phthalates. Phthalates, used to make fragrances last longer, have been linked to many hazardous health conditions, such as reduced sperm count, liver and breast cancers, reproductive malformation and diabetes. This carcinogen has been banned in Canada as well as other countries (EU, Japan, South Korea, and even China). Fragrance is listed as the Allergic Contact Dermatitis’ allergen of the year in 2007,



- g) Hydrogenated Polydecene – Hydrogenated polydecene is the end product of the controlled hydrogenation of polydecene. It is classed as both a hydrocarbon and a synthetic polymer. Hydrogenated Polydecene is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),
- h) Tetrasodium EDTA – This ingredient is produced synthetically for industrial purposes in the laboratory. It is a preservative made from the known carcinogen formaldehyde and sodium cyanide. It is also a penetration enhancer, meaning it breaks down the skin’s protective barrier, going directly into the bloodstream. It is classified as a high human health priority and expected to be toxic or harmful. Tetrasodium EDTA has been ranked as a “top 5” chemical to avoid,
- i) Cetyl Alcohol – The US FDA classifies cetyl alcohol as a synthetic fatty alcohol. Cetyl alcohol is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),

The whole as appears more fully from copies of extracts from the EWG’s Skin Deep Cosmetics Database website at www.ewg.org, from a copy of the Tree Hugger article entitled “Everything you need to know about natural skin care” dated June 23, 2014, from a copy of the Contact Dermatitis review article entitled “Formaldehyde-releasers in cosmetics: relationship to formaldehyde contact allergy” dated 2010, from a copy of the Chemical News article entitled “Diazolidinyl Urea - toxicity, side effects, diseases and environmental impacts” dated November 11, 2017, from a copy of the Attitude Living article entitled “10 Ingredients Categories to Avoid in a Shampoo” dated January 16, 2018, from a copy of The Dermatologist article entitled “Review ACDS’ Allergen of the Year 2000-2015” dated November 21, 2014, from a copy of the Non Toxic Revolution article entitled “WTF in in Fragrance and is it Harmful” dated May 30, 2017, from a copy of the Bubble & Bee article entitled “Top Five Chemicals to Avoid” updated 2015, and from a copy of the Priority Substances List Assessment Report for Formaldehyde dated 2001, produced herein *en liasse* as **Exhibit R-19**;

48. The Aveeno Active Naturals Positively Nourishing Comforting Whipped Souffle similarly contains many unnatural, synthetic, and other potentially hazardous ingredients (depending on the quantity) including, but not limited to the following:

- a) Glycerin,
- b) Caprylic/Capric Triglyceride – This ingredient is produced by chemical reactions between various fatty acids and glycerol. It is a mixed triester derived from coconut oil and glycerin. It is largely synthetic,
- c) Isopropyl Palmitate – Manufactured from the synthetic alcohol isopropyl and the fatty acid from palm oil, isopropyl palmitate is not considered natural,
- d) Cetyl Alcohol,

- e) Glyceryl Stearate SE – This ingredient is an esterification product of glycerin and stearic acid. Glyceryl stearate SE is produced by reacting an excess of stearic acid with glycerin. The excess stearic acid is then reacted with potassium and/or sodium hydroxide, yielding a product that contains glyceryl stearate, as well as potassium stearate and/or sodium stearate,
- f) Tocopheryl Acetate – Tocopheryl acetate is a synthetic ester of acetic acid and tocopherol. It is a toxicant or allergen and a possible carcinogen,
- g) Carbomer – Carbomer is a synthetic acrylic polymer,
- h) Fragrance,
- i) Disodium EDTA – Disodium EDTA is a synthetic salt of edetic acid,
- j) Methylisothiazolinone – This ingredient is a synthetic cosmetic preservative. It is a powerful biocide that has been linked to brain and nerve cell damage and it is an irritant. It appears on the Cosmetic Ingredient Hotlist (Exhibit R-15) and it has been banned or found unsafe for use in cosmetics by the European Scientific Committee on Consumer Safety (SCCS). Methylisothiazolinone is listed as the Allergic Contact Dermatitis' allergen of the year in 2013 (Exhibit R-19),
- k) Sodium Hydroxide – This ingredient is a manufactured chemical, an inorganic compound which controls the pH levels in creams, and a buffering agent. It is considered a strong irritant. Sodium hydroxide is also known as lye, caustic soda, soda lye, or sodium hydrate. According to the National Institute for Occupation Safety and Health, it irritates the eyes, skin, and mucous membrane, and may cause pneumonitis. It is classified as “expected to be toxic or harmful,” and one or more animal studies show brain and nervous system, metabolic, and sense organ effects at very low doses. There are warnings regarding using this ingredient around the eyes or mouth. It has been linked to cancer, specifically of the esophagus. It is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),

The whole as appears more fully from copies of extracts from the EWG’s Skin Deep Cosmetics Database website at www.ewg.org, from a copy of the Annmarie Skin Care article entitled “Ingredient Watch List: Tocopheryl Acetate, the Potentially Irritating for of Vitamin E” undated, and from a copy of the SCCS Final Opinion on Methylisothiazolinone dated December 2015, produced herein *en l’iasse* as **Exhibit R-20**;

49. The Aveeno Active Naturals Nourish+ Moisturize Shampoo similarly contains many unnatural, synthetic, and other potentially hazardous ingredients (depending on the quantity) including, but not limited to the following:



- a) Ammonium Lauryl Sulfate – Ammonium lauryl sulfate is a synthetic ammonium salt of sulfated ethoxylated lauryl alcohol. It is a skin and eye irritant and it is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),
- b) Dimethicone – Dimethicone is what chemists call a “silicon-based polymer” – “polymer” meaning it is a large molecule made up of several smaller units bonded together. Simply put, dimethicone is a silicon oil that is man-made in the laboratory and it is listed on Environment Canada’s Domestic Substances List (Exhibit R-26),
- c) Sodium Cumenesulfonate – This ingredient is a hydrotropic substance used as a coupling agent, viscosity modifier, solubilizer, and cloud point and crystallization temperature depressant in liquid cleaning, washing, and laundry detergents, wax strippers, and metalworking cleansers,
- d) Cocamide MEA – Made by mixing the fatty acids from coconut oil and monoethanolamine (MEA), this ingredient may contain traces of cocamide DEA, which, according to the US FDA, may lead to the formation of carcinogenic nitrosamines,
- e) Cetyl Alcohol,
- f) Acrylates Copolymer – Acrylates copolymer is a general term for copolymers of two or more monomers consisting of acrylic acid, methacrylic acid, or one of their simple esters. Acrylates are listed as the Allergic Contact Dermatitis’ allergen of the year in 2012 (Exhibit R-19),
- g) Cocamidopropyl Betaine (CAPB) – Cocamidopropyl betaine is a synthetic surfactant. It has been associated with irritation and allergic contact dermatitis. It is listed as the Allergic Contact Dermatitis’ allergen of the year in 2004 (Exhibit R-19),
- h) Fragrance,
- i) Phenoxyethanol,
- j) Tetrasodium EDTA,
- k) Polyquaternium-10 – Polyquaternium-10 is a polymeric quaternary ammonium synthetic derivative of hydroxyethyl cellulose,
- l) Glycerin,

The whole as appears more fully from copies of extracts from the EWG’s Skin Deep Cosmetics Database website at www.ewg.org, from a copy of the CV Skinlabs article entitled “Dimethicone: The Truth Behind This Common Cosmetics Ingredient” dated April 16, 2012, and from a copy of the Face Naturals article

entitled “Cocamidopropyl Betaine (CAPB) – Toxic or safe?” dated February 11, 2016, produced herein *en liasse* as **Exhibit R-21**;

50. The Aveeno Active Naturals Nourish+ Moisturize Conditioner similarly contains many unnatural, synthetic, and other potentially hazardous ingredients (depending on the quantity) including, but not limited to the following:

- a) Dimethicone,
- b) Cyclopentasiloxane – Cyclopentasiloxane is a synthetic silicone oil and it is listed on Environment Canada’s Domestic Substances List (Exhibit R-26). It is a potential cancer-causing agent as well as being potentially toxic or harmful,
- c) Cetyl Alcohol,
- d) Behentrimonium Methosulfate – This ingredient is synthetically created from modified rapeseed oil,
- e) Glycerin,
- f) Fragrance,
- g) Stearyl Alcohol – The US FDA classifies stearyl alcohol as a synthetic fatty alcohol. The Cosmetics Database finds Stearyl Alcohol to be a low hazard ingredient, despite cancer, irritation, and organ system toxicity concerns and strong evidence that it is a human irritant by the Cosmetic Ingredient Review. One or more animal studies show tumor formation at high doses,
- h) Phenoxyethanol,
- i) Polyquaternium-7 – This ingredient is a synthetic polymer based on quaternary ammonium compounds,
- j) Hydroxyethylcellulose – Hydroxyethylcellulose is a modified cellulose polymer. It is used as a gelling and thickening agent,
- k) Amodimethicone – Amodimethicone is a synthetic conditioning agent,
- l) Cetrimonium Chloride – Cetrimonium chloride is a synthetic antiseptic agent with antistatic, emulsifying, detergent, and preservative properties. It is a toxicant or allergen,

The whole as appears more fully from copies of extracts from the EWG’s Skin Deep Cosmetics Database website at www.ewg.org, produced herein *en liasse* as **Exhibit R-22**;

51. Of the approximate 35 Aveeno Active Naturals Product ingredients listed above, approximately 15 of them are ingredients that are prohibited by the Natural

Standard for Personal Care Products⁸ (Exhibit R-12). Attached hereto are copies of the National Library of Medicine Hazardous Agents listing for many of the ingredients, produced herein *en liasse* as **Exhibit R-23**;

52. Many of the Aveeno Product ingredients are classified as causing: skin and/or eye irritation, respiratory sensitization, contact allergies, contact dermatitis, asthma, skin sensitization, burns, corrosive injuries to upper respiratory tract, liver injuries, somnolence and respiratory depression (Exhibit R-23),
53. In particular, parabens mimic estrogen in the body, which could lead to genital abnormalities in boys, early puberty for girls, and the development of breast cancer; phthalates (found in the term “fragrance”) are endocrine disrupters and studies have shown they cause reduced sperm count and have been linked to liver cancer; formaldehyde donors (such as Diazolidinyl Urea) are toxic, allergenic and carcinogenic; and Sodium Lauryl Sulfate can cause skin and eye irritation, the whole as appears more fully from a copy of the Natural Products Association (NPA) article entitled “Navigating the Cosmetic Label: What Does It Really Mean?” undated, produced herein as **Exhibit R-24**;
54. For information on cosmetic substances and ingredients and their “function”, including those listed out hereinabove, see the Official Journal of the European Union Amending Decision European 96/335/EC establishing an inventory and a common nomenclature of ingredients employed in cosmetic products, produced herein as **Exhibit R-25**;
55. The majority of the Aveeno Active Naturals Products’ synthetic substances listed above appear on Environment Canada’s Domestic Substances List, which screens out chemical substances before allowing for their use. Approximately 23,000 existing chemical substances are registered on the Domestic Substances List, the whole as appears more fully from a copy of Environment Canada’s Domestic Substances List, produced herein as **Exhibit R-26**;

⁸ Namely, Ammonium Lauryl Sulfate, Amodimethicone, Behetrimorium Methosulfate, Cetrimonium Chloride, Carbomer, Cocamide MEA, Cocamidopropyl betaine, Cyclopentasiloxane, Dimethicone, Disodium EDTA, Isopropyl Palmitate, Methylisothiazolinone, Methylparaben, propylparaben, ethylparaben, Polyquaternium-10, and PEG-100 Stearate.



12 Toxic Ingredients To Avoid in Shampoo and Conditioner

www.livlovefruit.com

Sodium Lauryl Sulfate (SLS) Cancer, liver damage, skin rashes, depression	Fragrance Clogs the lymphatic system, major organ system toxicity	Cocamidopropyl Betaine Eye & skin irritation, allergic contact dermatitis	Triclosan Skin, eye and lung irritation, endocrine & organ disruption	Polysorbates Skin, eye and lung irritation, endocrine & organ disruption	Polyethylene Glycol (PEG) Direct link to CANCER, organ system toxicity
Potassium Sorbate Causes skin and organ system toxicity	Phenoxyethanol Irritant of skin, eyes & lungs, vomiting, contact dermatitis	Retinyl Palmitate Carcinogen, causes reproductive & organ system toxicity	Dimethicone Irritation of the skin, scalp & eyes, traps impurities in skin	Behentrimonium Chloride Damages the eyes, inflammatory agent, irritates skin	Quaternium-15 Contains carcinogenic formaldehyde, major toxin to body

56. The Aveeno website also features numerous slogans and representations to induce the purchaser into believing that the Aveeno Products are natural. For example, with respect to the Aveeno Active Naturals Creamy Moisturizing Oil, the Respondents state:

“We’ve created the unthinkable — a creamy moisturizing oil that doesn’t leave your skin feeling greasy. This breakthrough body lotion soothes dry skin with a combination of ACTIVE NATURALS® Colloidal Oatmeal and sweet almond oil. These ingredients also work together to help replenish the skin’s natural moisture barrier. And with its light fragrance, you can smell fresh, while feeling soft and smooth all day long.”

The whole as appears more fully from a copy of an extract from the Respondents’ website at www.aveeno.ca, produced herein as **Exhibit R-27**;

57. With respect to the Aveeno Active Naturals Positively Nourishing Soothe Shampoo, the Respondents state:

“Soothe your dry, itchy scalp with natural lavender and peppermint, while using a fusion of gentle conditioners and moisturizers to bathe your hair — with our ACTIVE NATURALS® Wheat Complex being the key moisturizing ingredient in our shampoo. So give your hair more than just a cleanse. Give it life with the soothing nourishment it deserves.”

The whole as appears more fully from a copy of an extract from the Respondents’ website at www.aveeno.ca, produced herein as **Exhibit R-28**;

58. On their website, the Respondents also make numerous statements and representations to reinforce the “Active Naturals” part of its brand, emphasizing the

perceived health, efficacy, and safety benefits of using natural personal care products (Exhibit R-15);

59. For example, on a page titled “About AVEENO®”, the Respondents describe their heritage. The Respondents explain how the AVEENO® brand founders experimented with raw cereal, which led to the discovery of the finely milled colloidal oatmeal bath. Using the knowledge they had acquired about the natural moisturizing benefits of oats, it became the basis of their “natural” Products (Exhibit R-17);
60. The Respondents’ scheme to exploit consumer demand for natural products by falsely or misleadingly advertising the Aveeno Products as natural has been extraordinarily successful. In 2017 alone, the Aveeno Products are listed as the third leading hand and body lotion brand in the United States with annual sales of 83.9 million U.S. dollars, the whole as appears more fully from a copy of the Statista article entitled “Leading hand and body lotion brands in the United States in 2017, based on sales (in million U.S. dollars)”, produced herein as **Exhibit R-29**;
61. According to the Respondents’ website, the AVEENO® Daily Moisturizing Lotion has become the country’s #1 selling hand and body lotion since its launch (Exhibit R-17);
62. The Respondents manufacture, distribute, market, advertise, promote, package, label, sell, and represent the Aveeno Products as natural, primarily, in order to increase their profit margins by selling their products to consumers who are increasingly seeking more natural products. In recognition of the fact that consumers will pay more for natural products, the Respondents prominently display the label “Aveeno Products” on the front of every Aveeno Product. Moreover, as depicted below, the Respondents indicate that “AVEENO® ACTIVE NATURALS® are ingredients derived from nature and uniquely formulated to reveal skin’s natural health and beauty” on the product labelling. The Respondents advertise the Aveeno Active Naturals Products within the Aveeno line as natural by use of the Aveeno Active Naturals brand name and by inclusion of the words “Active Naturals” on the Aveeno Products’ front and/or back labels and/or in the Aveeno Product advertising;





63. The above Aveeno Product, being the Purifying Body Wash represents the following on the product labelling:

“AVEENO combines the best of science and nature to reveal the natural beauty of your skin. AVEENO uses select natural ingredients because of their advanced benefits; we call these “ACTIVE NATURALS”, natural ingredients that deliver visible results.

AVEENO Purifying Body Wash is just as good for your skin as it is for your senses. It’s the first detoxifying body wash to combine ACTIVE NATURALS ingredients from the land and sea to gently flush away impurities. This formula with it’s unique combination of sea kelp and



moisturizing oatmeal deeply cleanses and nourishes leaving your skin feeling revitalized and soft after you shower”;

64. While continuing to use the basic “Aveeno Active Naturals” theme, the Respondents have, at times, updated and changed their containers, packaging, marketing, and advertising in order to appeal to prevailing market trends and to attract new customers who may not have been drawn to their products previously, while maintaining the interest of the existing customer base. Accordingly, the Class size has increased over time as have the resulting damages attributable to the sales of “Aveeno Active Naturals” branded products;
65. The Respondents’ representations that the Aveeno Products are natural (including, but not limited to the “Active Naturals” representation), described above, are false because products containing synthetic ingredients are unnatural by definition. An objective reasonable consumer believes, based on these representations outlined above, that the Aveeno Products do not contain unnatural, synthetic, and potentially harmful ingredients (depending on the quantity); however, in fact, the Aveeno Products do contain such ingredients;
66. Since the brand’s inception, the Respondents have continued to push and to expand their use of the Aveeno Active Naturals concept in various ways to ever increase its market share and resulting profits. Due to growing awareness and concerns regarding the effect of unnatural chemicals on their own bodies, more and more consumers have been embracing a more “natural lifestyle”, including purchasing natural cosmetic and personal care products. By misleading consumers about its Aveeno Products, the Respondents undermine those efforts, misleading consumers to induce their purchase of the unnatural Aveeno Products in lieu of truly natural ones;
67. Each year, the Respondents have issued new and updated “natural”-themed advertising in print and on their websites, Facebook page(s) and Twitter account(s), as well as in other promotions and promotional tie-ins. For example, in addition to noting the natural attributes of the Respondents’ Aveeno Products, such “natural”-themed advertising has, at different times, focused on the environment, nature, natural elements of the products, and the planet, all of which the Respondents have used to both retain and to attract more consumer interest;
68. As an example, the Respondents have focused on nature in order to drive sales, using slogans like “Discover nature’s secret for calming sensitive skin” and “Naturally beautiful results” as is depicted below:



Naturally Beautiful Results®

Dry, sensitive skin? Nature's answer is in the palm of your hand.

Clinically proven to calm sensitive skin – in as little as one week.*

94% of dermatologists recommend Aveeno Ultra-Calming among sensitive skin treatments.

Aveeno Ultra-Calming® does more than just provide instant moisture which lasts all day long; it also manages sensitive skin so it looks and feels healthier. This exclusive formula contains Feverfew, a botanical extract selected among over 2,000 other natural ingredients for delivering the most effective anti-inflammatory benefits. Finally a solution for sensitive skin from the brand dermatologists have recommended for 60 years.

Discover nature's secret for calming sensitive skin.

Aveeno
ACTIVE NATURALS™

*Based on a clinical study with a Daily Moisturizer & Inactive Treatment regimen usage conducted on 60 subjects over a 3 week period.





Aveeno.
Baby.

ACTIVE NATURALS® OAT
Proteins | Enzymes | Vitamins
Lipids | Antioxidants

ONE NATURE'S MIRACLE FOR ANOTHER

Pediatricians in the US for Healthy Baby
#1 TRUSTED BRAND
GENUINE GOODS

NATURALLY NOURISHES AND HELPS PROTECT YOUR BABY'S SKIN FROM IRRITATION

AVEENO® Baby's ACTIVE NATURALS® Oat contains 5 vital elements also found in healthy baby skin making it the natural choice for your baby.

RA/Aveeno/OBAug1714

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69. The Respondents systematically convey the “Active Naturals” misrepresentation in advertising and on social media websites, such as Facebook. On the Aveeno Facebook page, the Respondents prominently state “Aveeno is formulated with Active Naturals to be naturally nourishing for Mom and Baby”, the whole as appears more fully from a copy of an extract from the Respondents’ Facebook page, produced herein as **Exhibit R-30**;

70. By labelling and advertising the Aveeno Products inextricably with the “Active Naturals” logo on the front label of every Aveeno Product, the Respondents create the impression amongst the average consumer that the Aveeno Products are in fact natural as represented. The Respondents fail to adequately inform consumers that the Aveeno Products contain numerous unnatural, synthetic, and potentially harmful ingredients (depending on the quantity);
71. Indeed, the Respondents only list the synthetic, unnatural ingredients on the back of the Aveeno Product packaging in small, hard-to-read print on the back labels and fail to inform consumers (who might actually be able to read them), that many of the ingredients listed are unnatural, synthetic, and potentially harmful (depending on the quantity) contrary to their representations. Despite the representations that the Aveeno Products are natural, no ingredients are designated as either natural or as unnatural on the miniscule ingredient list. Thus, there is no way for even the most discerning consumer who pores over every detail on the ingredient list to determine whether all or none of the ingredients are natural and they are left with the impression that since the Respondents use the term “Active Naturals” that they are in fact as such;
72. Moreover, the Respondents conveniently omit to disclose the unnatural, synthetic, and potentially harmful ingredients on their website;

IV. The U.S. Litigation

73. On May 7, 2013, a similar class action was filed in the United States District Court for the Southern District of New York alleging substantially similar claims against Respondent J&J Consumer. The action was subsequently amended on two occasions, the whole as appears more fully from a copy of the Second Amended Class Action Complaint in Case No. 7:13-cv-03073 dated April 29, 2014, produced herein as **Exhibit R-31**;
74. In connection with the U.S. litigation, Respondent J&J Consumer has admitted that the Aveeno Products contain one or more synthetic ingredients, that the phrase “Active Naturals” appears on the product packaging, and that the following Aveeno Products contain an active ingredient that is synthetic:
- A. Aveeno Active Naturals Daily Moisturizing Lotion,
 - B. Aveeno Active Naturals Daily Moisturizing Lotion with Broad Spectrum SPF 15,
 - C. Aveeno Active Naturals Skin Relief 24hr Moisturizing Lotion,
 - D. Aveeno Active Naturals Positively Radiant Daily Moisturizer Broad Spectrum SPF 15,
 - E. Aveeno Active Naturals Positively Ageless Perfecting Moisturizer Broad Spectrum SPF 30,



- F. Aveeno Active Naturals Daily Moisturizing Lotion,
- G. Aveeno Active Naturals Daily Moisturizing Lotion,
- H. Aveeno Active Naturals Skin Relief 24hr Moisturizing Lotion,
- I. Aveeno Active Naturals Skin Relief 24hr Moisturizing Lotion,
- J. Aveeno Active Naturals Skin Relief Healing Ointment,
- K. Aveeno Active Naturals Skin Relief Overnight Cream,
- L. Aveeno Active Naturals Eczema Therapy Moisturizing Cream,
- M. Aveeno Active Naturals Eczema Therapy Moisturizing Cream,
- N. Aveeno Active Naturals Eczema Therapy Moisturizing Cream,
- O. Aveeno Active Naturals 1% Hydrocortisone Anti-Itch Cream,

The whole as appears more fully from a copy of the Defendant's Responses and Objections to Plaintiffs' First Set of Requests for Admission in Case No. 7:13-cv-03073 dated August 17, 2015, produced herein as **Exhibit R-32**;

75. On October 4, 2016, the U.S. litigation was certified (authorized) by the Honourable Nelson S. Roman, United States District Judge, the whole as appears more fully from a copy of the Opinion and Order of the Honourable Judge Nelson S. Roman in Case No. 7:13-cv-03073 dated October 4, 2016, produced herein as **Exhibit R-33**;
76. On May 26, 2017, the U.S. litigation was settled as between the parties and on June 7, 2017 (amended on June 13, 2017), Judge Roman preliminarily approved the settlement. On November 1, 2017, Judge Roman approved the settlement, the whole as appears more fully from a copy of the Joint Stipulation of Settlement and its accompanying exhibits in Case No. 7:13-cv-03073 filed May 26, 2017, from a copy of the Amended Order Preliminarily Approving Class Action Settlement in Case No. 7:13-cv-03073 dated June 13, 2017, and from a copy of the Order and Judgment in Case No. 7:13-cv-03073 dated November 1, 2017, produced herein *en liasse* as **Exhibit R-34**;

V. Summative Remarks

77. The Respondents' ongoing practice of manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Products as natural – when in fact, the Aveeno Products contain minimal, if any, natural ingredients – is likely to deceive ordinary consumers who reasonably understood the labelling of the Aveeno Products to mean what it says – that the Aveeno Products are all or almost entirely made with natural ingredients. In reliance

upon the Respondents' claims that the Aveeno Products are natural, Class Members sought out and were willing to pay more for the Aveeno Products than similar products that do not claim to be natural, and in fact did purchase the Aveeno Products;

78. The advertisements and representations made by the Respondents as set forth above were and are false and/or misleading. The acts and practices of the Respondents, as alleged herein, constitute unfair or deceptive acts or practices and the marking of false statements;
79. As a result of the Respondents' deceptive claims, consumers have purchased products that are substantially different than represented;
80. Through its deceptive practice of marketing, advertising, promoting, packaging, labelling, and selling the Aveeno Products as "Active Naturals" despite the significant presence of unnatural, synthetic, and potentially harmful ingredients (depending on the quantity), the Respondents have been able to gain significant market share for Aveeno Products by deceiving consumers about the attributes of the Aveeno Products and differentiating them from other traditional, comparable personal care/cosmetic products that do not make deceptive claims. The Respondents were motivated to mislead consumers for no other reason than to take away market share from competing products, thereby increasing their own profits;
81. Since the Aveeno Products contain unnatural, synthetic, and potentially harmful ingredients (depending on the quantity), the Respondents' "Active Naturals" claims on the labelling and in their marketing campaign are false, misleading, and designed to deceive consumers into purchasing the Aveeno Products based on a false premise;
82. The Petitioner and the other Class Members were among the intended recipients of the Respondents' deceptive representations and omissions described herein. The Respondents' deceptive representations and omissions, as described herein, are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions;
83. Consumers were induced into purchasing Aveeno Active Naturals Products through the use of false and misleading representations, thereby vitiating their consent and entitling them to claim a refund for the purchase price of those products;

II. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER

84. The Petitioner purchased many Aveeno Active Naturals Products over the past several years, including, but not limited to AVEENO® Active Naturals Fragrance Free Soothing Bath Treatment, from various stores including, but not limited to Walmart and Pharmaprix for approximately \$11.99 plus taxes per box, and



AVEENO® Active Naturals Natural Colloidal Oatmeal Daily Moisturizing Lotion, from various stores including, but not limited to Walmart and Pharmaprix for approximately \$9.99 plus taxes per bottle;

85. The Petitioner believed, from having seen the Respondents' marketing and having read the product labelling, including the Active Naturals branding, that the Aveeno Products contained all or almost entirely natural ingredients;
86. The Petitioner has recently discovered that these product claims are false and misleading. The Petitioner has also recently discovered that a similar class action was settled in the United States for the Aveeno Products alleging false advertising;
87. In consequence, the Petitioner now realizes that he has been misled by the Respondents; had he known the true facts, the Petitioner would not have purchased the Aveeno Products;
88. The Petitioner's damages are a direct and proximate result of the Respondents' conduct and their false and misleading advertising;
89. In consequence of the foregoing, the Petitioner is justified in claiming damages;

III. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP

90. Every member of the Class has purchased Aveeno Products believing that they were composed of natural ingredients due to Respondents' marketing, advertising, and labelling;
91. The Class Members were, therefore, induced into error by the Respondents' false and misleading advertising;
92. Had the Respondents disclosed the truth about Aveeno Products, reasonable consumers would not have purchased them and/or certainly would not have paid such a high price for them;
93. In consequence of the foregoing, each member of the Class is justified in claiming at least one or more of the following as damages:
 - a. The purchase price of the Aveeno Product(s) or in the alternative, a portion of the purchase price for the Aveeno Product(s);
 - b. Punitive damages;
94. The Respondents engaged in wrongful conduct, while at the same time obtaining, under false pretenses, significant sums of money from Class Members;
95. All of these damages to the Class Members are a direct and proximate result of the Respondents' conduct and their false and misleading advertising;



IV. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

A) The composition of the Class makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings

96. The Petitioner is not privy to the specific number of persons who purchased Aveeno Products; however, it is safe to estimate that it is in the tens of thousands (if not hundreds of thousands). Nevertheless, the Respondents' sales records could establish the size of the class to a reasonable degree of exactitude;

97. Class Members are numerous and are scattered across the entire province of Quebec and country;

98. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Respondents. Even if the Class Members themselves could afford such individual litigation, it would place an unjustifiable burden on the courts and, at the very least, is not in the interests of judicial economy. Furthermore, individual litigation of the factual and legal issues raised by the conduct of the Respondents would increase delay and expense to all parties and to the court system;

99. While certain Class Members may have suffered a substantial loss, it is expected that the majority have suffered small losses making it economically unfeasible to finance the litigation expenses inherent in any legal proceeding;

100. This class action overcomes the dilemma inherent in an individual action whereby the legal fees alone would deter recovery and thereby in empowering the consumer, it realizes both individual and social justice as well as rectifies the imbalance and restore the parties to parity;

101. Also, a multitude of actions instituted in different jurisdictions, both territorial (different provinces) and judicial districts (same province), risks having contradictory judgments on questions of fact and law that are similar or related to all members of the Class;

102. These facts demonstrate that it would be impractical, if not impossible, to contact each and every member of the Class to obtain mandates and to join them together in one action;

103. In these circumstances, a class action is the only appropriate procedure and the only viable means for all of the members of the Class to effectively pursue their respective rights and have access to justice;

B) The claims of the members of the Class raise identical, similar or related issues of law or fact

104. All consumers were subjected to the same deceptive actions – the marketing, advertising, promoting, packaging, labelling, selling, and/or representing of the Aveeno Products with the Active Naturals brand name;
105. Individual issues, if any, pale by comparison to the common issues that are significant to the outcome of the litigation;
106. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely, the Respondents' misconduct;
107. The claims of the members raise identical, similar or related issues of fact or law, namely:
- a) Did the Respondents engage in unfair, false, misleading, or deceptive acts or practices regarding the manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural?
 - b) Are the Respondents liable to the Class Members for reimbursement of the purchase price of the Aveeno Active Naturals Products as a result of their misconduct?
 - c) Should an injunctive remedy be ordered to prevent the Respondents from continuing to perpetrate their unfair, false, misleading, and/or deceptive conduct?
 - d) Are the Respondents responsible to pay punitive damages to Class Members and in what amount?
108. The interests of justice favour that this application be granted in accordance with its conclusions;

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

109. The action that the Petitioner wishes to institute on behalf of the members of the Class is an action in damages, injunctive relief, and a declaratory judgment;
110. The conclusions that the Petitioner wishes to introduce by way of an application to institute proceedings are:

GRANT the class action of the Petitioner and each of the members of the Class;

DECLARE that the Defendants have committed unfair, false, misleading, and/or deceptive conduct with respect to their manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural;



ORDER the Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct by manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural;

DECLARE the Defendants solidarily liable for the damages suffered by the Petitioner and each of the members of the Class;

CONDEMN the Defendants to pay to each member of the Class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay punitive damages to each of the members of the Class, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the application to authorize a class action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

A) The Petitioner requests that he be designated as representative of the Class

111. The Petitioner is a member of the Class;

112. The Petitioner is ready and available to manage and direct the present action in the interest of the members of the Class that he wishes to represent and is determined to lead the present dossier until a final resolution of the matter, the whole for the benefit of the Class, as well as, to dedicate the time necessary for the present action before the Courts and the *Fonds d'aide aux actions collectives*, as the case may be, and to collaborate with his attorneys;

113. The Petitioner has the capacity and interest to fairly, properly, and adequately protect and represent the interest of the members of the Class;

114. The Petitioner has given the mandate to his attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;

115. The Petitioner, with the assistance of his attorneys, is ready and available to dedicate the time necessary for this action and to collaborate with other members of the Class and to keep them informed;
116. The Petitioner has given instructions to his attorneys to put information about this class action on their website and to collect the coordinates of those Class Members that wish to be kept informed and participate in any resolution of the present matter, the whole as will be shown at the hearing;
117. The Petitioner is in good faith and has instituted this action for the sole goal of having his rights, as well as the rights of other Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Respondents' conduct;
118. The Petitioner understands the nature of the action;
119. The Petitioner's interests do not conflict with the interests of other Class Members and further, the Petitioner has no interest that is antagonistic to those of other members of the Class;
120. The Petitioner is prepared to be examined out-of-court on his allegations (as may be authorized by the Court) and to be present for Court hearings, as may be required and necessary;
121. The Petitioner has spent time researching this issue on the internet and meeting with his attorneys to prepare this file. In so doing, he is convinced that the problem is widespread;
- B) The Petitioner suggests that this class action be exercised before the Superior Court of Justice in the district of Montreal
122. A great number of the members of the Class reside in the judicial district of Montreal and in the appeal district of Montreal;
123. The Petitioner's attorneys practice their profession in the judicial district of Montreal;
124. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an application to institute proceedings in damages, injunctive relief, and declaratory relief;

APPOINT the Petitioner as representative of the persons included in the Class herein described as:

- All persons residing in Canada who have purchased Aveeno Active Naturals Product(s) or any other group to be determined by the Court;

Alternately (or as a subclass)

- All persons residing in Quebec who have purchased Aveeno Active Naturals Product(s) or any other group to be determined by the Court;

IDENTIFY the principle issues of fact and law to be treated collectively as the following:

- a) Did the Respondents engage in unfair, false, misleading, or deceptive acts or practices regarding the manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural?
- b) Are the Respondents liable to the Class Members for reimbursement of the purchase price of the Aveeno Active Naturals Products as a result of their misconduct?
- c) Should an injunctive remedy be ordered to prevent the Respondents from continuing to perpetrate their unfair, false, misleading, and/or deceptive conduct?
- d) Are the Respondents responsible to pay punitive damages to Class Members and in what amount?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the class action of the Petitioner and each of the members of the Class;

DECLARE that the Defendants have committed unfair, false, misleading, and/or deceptive conduct with respect to their manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural;

ORDER the Defendants to cease from continuing their unfair, false, misleading, and/or deceptive conduct by manufacturing, distributing, marketing, advertising, promoting, packaging, labelling, selling, and/or representing the Aveeno Active Naturals Products as natural;

DECLARE the Defendants solidarily liable for the damages suffered by the Petitioner and each of the members of the Class;

CONDEMN the Defendants to pay to each member of the Class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay punitive damages to each of the members of the Class, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the application to authorize a class action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

DECLARE that all members of the Class that have not requested their exclusion, be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the Class Members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

ORDER the publication of a notice to the members of the group in accordance with article 579 C.C.P. within sixty (60) days from the judgment to be rendered herein in LA PRESSE and the NATIONAL POST;

ORDER that said notice be available on the Respondents' website, as well as their Facebook page(s) and Twitter account(s) with a link stating "Notice to Aveeno Active Naturals Product Purchasers";

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

THE WHOLE with costs, including all publication and dissemination fees.



Montreal, April 5, 2018

(s) Andrea Grass

CONSUMER LAW GROUP INC.

Per: Me Andrea Grass

Attorneys for the Petitioner

CONSUMER LAW GROUP INC.

1030 rue Berri, Suite 102
Montréal, Québec, H2L 4C3
Telephone: (514) 266-7863
Fax: (514) 868-9690
Email: agrass@clg.org