June 22, 2022
PURSUANT TO / CONFORMÉMENT À
☑ RULE/LA RÈGLE 26.02 (A.)
☐ THE ORDER OF / L'ORDONNANCE DU
DATED / FAIT LE
REGISTRAR / GREFFIER
SUPERIOR COURT OF JUSTICE / COUR SUPÉRIEURE DE JUSTICE
Judith Richards Registrar

Court File No.: CV-19-00620048-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

DARRYL GEBIEN

Plaintiff

- and -

APOTEX INC., APOTEX PHARMACEUTICAL HOLDINGS, INC., BRISTOL-MYERS SQUIBB CANADA, BRISTOL-MYERS SQUIBB COMPANY, PALADIN LABS, ENDO PHARMACEUTICALS INC., ENDO INTERNATIONAL PLC, JANSSEN INC., JOHNSON & JOHNSON, PHARMASCIENCE INC., JODDES LIMITED, PRO DOC LIMITEE, THE JEAN COUTU GROUP (PJC) INC., MYLAN PHARMACEUTICALS ULC, MYLAN N.V., PURDUE PHARMA INC., PURDUE PHARMA L.P., THE PURDUE FREDERICK COMPANY INC., PURDUE FREDERICK INC., RANBAXY PHARMACEUTICALS CANADA INC., SUN PHARMACEUTICAL INDUSTRIES LTD., HIKMA LABS INC., HIKMA PHARMACEUTICALS PLC, WEST-WARD COLUMBUS INC., SANIS HEALTH INC., SANDOZ CANADA INC., SANDOZ INTERNATIONAL GMBH, TEVA CANADA LIMITED, TEVA PHARMACEUTICALS USA, INC., TEVA PHARMACEUTICAL INDUSTRIES LTD., ACTAVIS PHARMA COMPANY, VALEANT CANADA LP/ VALEANT CANADA S.E.C, BAUSCH HEALTH COMPANIES INC., AMERISOURCEBERGEN CANADA CORPORATION, KOHL + FRISCH DISTRIBUTION INC., NU-QUEST DISTRIBUTION INC., ABBOTT LABORATORIES ~~INC.~~ ,LIMITED; and PROCURITY INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AMENDED FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $5,000.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and $400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: May 15, 2019

Issued by _____
Local Registrar

Address of court office: 393 University Avenue
Toronto ON
M5G 1E6

TO: **APOTEX INC.**
2700-700 West Georgia Street
Vancouver, BC V7Y 1B8

AND TO: **APOTEX PHARMACEUTICAL HOLDINGS, INC.**
150 Signet Drive
Weston, ON M9L 1T9

AND TO: **BRISTOL-MYERS SQUIBB CANADA**
1959 Upper Water Street, Suite #900
Halifax, NS B3J 2X2

AND TO: **BRISTOL-MYERS SQUIBB COMPANY**
1209 Orange Street
Wilmington, Delaware, USA 19801

AND TO: **PALADIN LABS**
Suite 1800-510 West Georgia Street
Vancouver, BC V6B 0M3

AND TO: **ENDO PHARMACEUTICALS INC.**
1400 Atwater Drive
Malvern, Pennsylvania, USA 19355

AND TO: **ENDO INTERNATIONAL PLC**
First Floor, Minerva House
Simmonscourt Road
Ballsbridge Dublin 4, Ireland

AND TO: **JANSSEN INC.**
595 Burrard Street
Suite 2600, PO Box 49214
Vancouver, BC V7X 1L3

AND TO: **JOHNSON & JOHNSON**
1 Johnson & Johnson Plaza
New Brunswick, New Jersey, USA 08933

AND TO: **PHARMASCIENCE INC.**
6111 Royalmount Avenue, Suite 100
Montreal, QC H4P 2T4

AND TO: **JODDES LIMITED**
6111 Royalmount Avenue, Suite 100
Montreal, QC H4P 2T4

AND TO: **PRO DOC LIMITEE**
2925 Boulevard Industriel
Laval, QC H7L 3W9

AND TO: **THE JEAN COUTU GROUP (PJC) INC.**
245, rue Jean Coutu
Varennes, QC J3X 0E1

AND TO: **MYLAN PHARMACEUTICALS ULC**
85 Advance Road
Etobicoke, ON M8Z 2S6

AND TO: **MYLAN N.V.**
Building 4, Trident Place
Mosquito Way, Hatfield
Hertfordshire ALIO 9UL

AND TO: **PURDUE PHARMA INC.**
1200 Waterfront Centre
200 Burrard Street, PO Box 48600
Vancouver, BC V7X 1T2

AND TO: **PURDUE PHARMA L.P.**
One Stamford Forum
201 Tresser Boulevard
Stamford, Connecticut, USA 06901-3431

AND TO: **THE PURDUE FREDERICK COMPANY INC.**
One Stamford Forum
201 Tresser Boulevard
Stamford, Connecticut, USA 06901-3431

AND TO: **PURDUE FREDERICK INC.**
40 King Street West, Suite 4400
Toronto, ON M5H 3Y4

AND TO: **RANBAXY PHARMACEUTICALS CANADA INC.**
2680 Matheson Blvd. East, Suite 200
Mississauga, ON L4W 0A5

AND TO: **SUN PHARMACEUTICAL INDUSTRIES LTD.**
Sun Pharma Advanced Res.Centre,
Tandalja, Vadodara, India GJ-390020

AND TO: **HIKMA LABS INC.**
1809 Wilson Road
Columbus, Ohio, USA 43228-9579

AND TO: **HIKMA PHARMACEUTICALS PLC**
King Abdullah II street, Building 357 P.O. Box 182400
11118 Amman Jordan

AND TO: **WEST-WARD COLUMBUS INC.**
1809 N Wilson Road
Columbus, Ohio, USA 43228

AND TO: **SANIS HEALTH INC.**
Suite 200, Phoenix Square
371 Queen Street
Fredericton, NB E3B 1B1

AND TO: **SANDOZ CANADA INC.**
800-885 West Georgia Street
Vancouver BC V6C 3H1

AND TO: **TEVA CANADA LIMITED**
Suite 2200, 1055 West Hastings Street
Vancouver, BC V6E 2E9

AND TO: **TEVA PHARMACEUTICALS USA, INC.**
1090 Horsham Road
North Wales, Pennsylvania USA 19454

AND TO: **TEVA PHARMACEUTICAL INDUSTRIES LTD.**
5 Basel St., Petach Tikva
Israel, 49131

AND TO: **ACTAVIS PHARMA COMPANY**
30 Novopharm Court
Toronto, ON M1B 2K9

AND TO: **VALEANT CANADA LP/ VALEANT CANADA S.E.C.**
2700-700 West Georgia Street
Vancouver, BC V7Y 1B8

AND TO: **BAUSCH HEALTH COMPANIES INC.**
25th floor
700 West Georgia Street
Vancouver, BC V7Y 1B3

AND TO: **AMERISOURCEBERGEN CANADA CORPORATION**
200 Bay Street, Suite 3800
Royal Bank Plaza, South Tower
Toronto, ON M5J 2Z4

AND TO: **KOHL & FRISCH DISTRIBUTION INC.**
7622 Keele Street
Concord, ON L4K 2R5

AND TO: **NU-QUEST DISTRIBUTION INC.**
96 Clyde Ave
Mount Pearl, NFL A1N 4S2

AND TO: **ABBOTT LABORATORIES LIMITED**
8625 TransCanada Highway
Saint-Laurent, QC H4S 1Z6

AND TO: **PROCURITY INC.**
160 Eagle Drive
Winnipeg, MB R2R 1V5

CLAIM

1. The Plaintiff claims on his own behalf, and on behalf of the Class described herein:

(a) an order certifying this action as a class proceeding and appointing him as representative Plaintiff for the Class Members;

(b) a declaration that the Defendants have breached the *Competition Act*, R.S.C. 1985, c. C-35, section 52;

(c) a declaration that the Defendants owed a duty of care to the Plaintiff and Class Members with respect to research, development, manufacture, testing, regulatory licensing, distribution, sale and marketing of Opioids;

(d) a declaration that the Defendants breached their duty of care with respect to research, development, manufacture, testing, regulatory licensing, distribution, sale and marketing of Opioids;

(e) a declaration that the Defendants were negligent in their research, development, manufacture, testing, regulatory licensing, distribution, sale and marketing of Opioids;

(f) a declaration that each of the Defendants is vicariously liable for the acts and omissions of its officers, directors, agents, employees and representatives;

(g) an accounting of the profits each Defendant earned during the class period from the sale of Opioids to the Class and disgorgement to the Class of such profits;

(h) ~~general~~ damages under section 36 of the *Competition Act* for loss or damage under suffered as a result of conduct contrary to section 52;

(i) pecuniary ~~and special~~ damages in the amount of $1,000,000,000.00 for persons who suffered injuries and damages as a result of the Defendants' fraudulent misrepresentations, negligence, and fraudulent concealment;

(j) non-pecuniary damages in an amount to be assessed for each person who suffered damages as a result of the Defendants' fraudulent misrepresentation, negligence, and fraudulent concealment;

(k) damages pursuant to the *Family Law Act*, R.S.O. 1990, c F.3 s.61 and similar legislation (and common law) in other provinces, in the amount of $100,000.00 for each such plaintiff;

(l) punitive damages in the amount of $100,000,000.00;

(m) the costs of distributing all monies received to class members;

(n) prejudgment and postjudgment interest;

(o) costs on a substantial indemnity basis, plus applicable taxes; and

(p) such further and other relief as this Honourable Court may deem just.

A. DEFINITIONS

2. The capitalized terms used in the Statement of Claim have the meanings indicated below:

(a) "**Class**" and "**Class Members**" means all persons in Canada, save for excluded persons, who were prescribed Opioids manufactured, marketed or distributed by the Defendants from January 1, 1996 to the present day ("**Class Period**") and who suffer or have suffered from Opioid Use Disorder, according to the diagnostic criteria hereafter described;

(b) The Class includes the direct heirs of any deceased persons who met the above-mentioned criteria;

(c) "**Excluded Persons**" means:

(i) any person who was prescribed OxyContin® or OxyNEO® in Canada at any time between January 1, 1996 and April 15, 2016 inclusive, and was not prescribed any other Opioids, as defined below, at any time during the Class Period: and,

(ii) any officer or director of any of the Defendants;

(d) "**Family Law Class**" and "**Family Law Class Members**" means all persons within Canada, except for excluded persons, who by reason of his or her relationship to a Class Member have standing pursuant to s. 61(1) of the *Family Law Act*, R.S.O. 1990, c. F.3, or equivalent legislation in other provinces and territories, or the common law;

(e) **"Opioids"** means opioid drugs or opioid products which are a class of drugs that are defined by a chemical compound that is naturally found in the opium poppy plant or which are synthetically made using the same chemical structure, and include (but are not limited to) butorphanol, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, normethadone, opium, oxycodone, oxymorphone, pentazocine, tapentadol, tramadol, codeine, Dilaudid/Dilaudid HP, Belbuca, BuTrans, Targin, Fentora, Duragesic, Abstral, Metadol, Statex, Tridural, Nucynta, Nucynta CR, Nucynta ER, Nucynta IR, Lazanda, Ultram, Opana ER, Tramacet, Percocet, Percocet-DEMI, Endocet, Percodan, Kadian, and generic versions of oxycodone, oxymorphone, hydromorphone, hydrocodone, and fentanyl transdermal systems. Opioids does not include OxyContin® or OxyNEO®.

(f) "**Opioid Use Disorder**" means use of opioids resulting in:

i. giving up important social occupation or recreational activities;

ii. persistent desire or unsuccessful efforts to reduce Opioid use;

iii. failure to fulfill occupational, scholastics or home life obligations;

iv. persistent or recurrent social or interpersonal problems;

v. impairment in physically hazardous situations;

vi. tolerance requiring use of larger amounts of Opioids than intended;

vii. a persistent or recurrent physical or psychological problem that is caused or exacerbated by Opioids; or

viii. Opioids withdrawal syndrome.

B. NATURE OF THE ACTION

3. In the mid-1990s, the Defendants decided to expand the market in Canada for prescription Opioid drugs. They did this by encouraging the long-term use of Opioids for widespread chronic conditions, particularly chronic pain.

4. The Defendants vigorously marketed Opioids as less addictive than they knew them to be. They promoted these drugs as safe, effective, and appropriate for long term use in routine pain conditions, when they knew or should have known that they were not.

5. In so doing, the Defendants breached their statutory and common law duties to the Plaintiff and Class Members, who became addicted to Opioids. The Defendants profited enormously from these breaches. They owe damages for the harm they have caused to the Class Members.

C. THE PLAINTIFF

6. The representative plaintiff is Dr. Darryl Gebien. He lives in Toronto, Ontario. Dr. Gebien suffered a ligament injury in his thumb and as a result was prescribed Percocet, a type of opioid manufactured by the Defendants. Shortly thereafter, he became addicted to Percocet.

7. Dr. Gebien's addiction had a significant and lasting impact on his life. Dr. Gebien lost his license to practice medicine. He lost his job. He was incarcerated. He lost custody of his children.

D. THE DEFENDANTS

8. The Defendants manufacture, market, distribute, and sell Opioids in Canada.

THE MANUFACTURER DEFENDANTS

i. The Apotex Defendants

9. Apotex Inc. is a Canadian company. During the Class Period, Apotex Inc. manufactured, marketed, and sold Opioids in Canada.

10. Apotex Pharmaceutical Holdings, Inc. is a Canadian company. During the Class Period, Apotex Pharmaceutical Holdings, Inc., directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

11. The businesses of each of the Defendants Apotex Inc. and Apotex Pharmaceutical Holdings, Inc. (collectively, "Apotex") are inextricably interwoven with that, of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada, including but not limited to Apo-Tramadol, Apo-Fentanyl Matrix, Apo-Hydromorphone, and Apo-Oxycodone CR.

ii. The Bristol-Myers Defendants

12. Bristol-Myers Squibb Canada is a Canadian company. During the Class Period, Bristol-Myers Squibb Canada manufactured, marketed and sold Opioids in Canada.

13. Bristol-Myers Squibb Company is an American company. During the Class Period, Bristol-Myers Squibb Company, directly or through its subsidiaries or affiliates, manufactured, marketed, and sold Opioids in Canada and in the United States of America.

14. The businesses of each of the Defendants Bristol-Myers Squibb Canada and Bristol-Myers Squibb Company (collectively, "**Bristol-Myers**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of

Opioids in Canada during the Class Period including but not limited to Endocet, Percocet, Percocet-DEMI, Percodan, and Percodan-Demi.

iii. The Endo Defendants

15. Paladin Labs is a Canadian company. It is affiliated with and/or controlled by Endo Pharmaceuticals Inc. ("**Endo USA**") and Endo International PLC ("**Endo International**"). During the Class Period, Paladin Labs manufactured, marketed and sold Opioids in Canada.

16. Endo USA is an American company. During the Class Period, Endo USA, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and in the U.S.A.

17. Endo International is an Irish company, with its principal place of business in Dublin, Ireland. Paladin Labs and Endo USA are subsidiaries of Endo International. During the Class Period, Endo International, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

18. The businesses of each of the Defendants Paladin Labs, Endo USA and Endo International (collectively, "**Endo**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to Opana ER, Abstral, Metadol, Statex, Tridural, pms-Methadone, and Nucynta.

iv. The Janssen Defendants

19. Janssen Inc. (formerly known as Janssen-Ortho Inc.) is a Canadian company. During the Class Period, Janssen Inc. manufactured, marketed and sold Opioids in Canada.

20. Johnson & Johnson is an American company. Janssen Inc. is a subsidiary of okahoma & Johnson. During the Class Period, Johnson & Johnson, directly or through its subsidiaries or

affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A.

21. The businesses of each of the Defendants Janssen Inc. and Johnson & Johnson (collectively, "**Janssen**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to, Duragesic, Tramacet, Ultram, Nucynta CR, and PAT-Tramadol/Acet. Tylenol with Codeine No. 2, Tylenol with Codeine No. 3, Tylenol with Codeine No. 4, Tylenol with Codeine Elixir.

v. The Pharmascience Defendants

22. Pharmascience Inc. is a Canadian company. During the Class Period, Pharmascience Inc. manufactured, marketed and sold Opioids in Canada.

23. Joddes Limited is a Canadian company. Pharmascience Inc. is a subsidiary of Joddes. During the Class Period, Joddes Limited, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

24. The businesses of each of the Defendants Pharmascience Inc. and Joddes Limited (collectively, "Pharmascience") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to PMS-Butorphanol, PMS-Oxycodone CR, PMS-Fentanyl MTX, PMS-Hydromorphone, PMS-Morphine Sulfate SR, and PDP-Hydrocodone.

vi. Pro Doc / Jean Coutu

25. Pro Doc Limitee is a Canadian company. During the Class Period, Pro Doc Limitee manufactured, marketed and sold Opioids in Canada.

26. The Jean Coutu Group (PJC) Inc. ("**Jean Coutu**") is a Canadian company. Pro Doc Limitee is a subsidiary of Jean Coutu. During the Class Period, Jean Coutu, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

27. The businesses of each of the Defendants Pro Doc Limitee and Jean Coutu are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada, including but not limited to Fentanyl Patch, Oxycodone, Oxycodone-Acet, and Tramadol-Acet.

vii. The Mylan Defendants

28. Mylan Pharmaceuticals ULC is a Canadian company. During the Class Period, Mylan Pharmaceuticals ULC manufactured, marketed and sold Opioids in Canada.

29. Mylan N.V. is a Dutch company. Mylan Pharmaceuticals Inc. is a subsidiary of Mylan N.V. During the Class Period, Mylan N.V., directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A

30. The businesses of each of the Defendants Mylan Pharmaceuticals ULC and Mylan N.V. (collectively, "**Mylan**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada, including but not limited to Mylan-Fentanyl Matrix Patch, and Mylan-Tramadol/Acet.

viii. The Purdue Defendants

31. Purdue Pharma Inc. is a Canadian company. During the Class Period, Purdue Pharma Inc. manufactured, marketed and sold Opioids in Canada.

32. Purdue Pharma L.P. is an American company. During the Class Period, Purdue Pharma

L.P. directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A.

33. The Purdue Frederick Company Inc. is an American company. It is a signatory to a plea agreement in the United States District Court for the Western District of Virginia in which it admitted to the felony of misbranding the Opioid Product OxyContin with the intent to defraud or mislead.

34. Purdue Frederick Inc. is a Canadian company. During the Class Period, Purdue Frederick Inc., directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

35. The businesses of each of the Defendants Purdue Pharma Inc., Purdue Pharma L.P., The Purdue Frederick Company Inc. and Purdue Frederick Inc. (collectively, **"Purdue"**) are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada, including but not limited to Belbuca, BuTrans, Targin, MS Contin, Hydromorph Contin, Oxycontin and OxyNEO.

ix. The Ranbaxy Defendants

31. Ranbaxy Pharmaceuticals Canada Inc. is a Canadian company. During the Class Period, Ranbaxy Pharmaceuticals Canada Inc. manufactured, marketed and sold Opioids in Canada.

32. Sun Pharmaceutical Industries Ltd. (**"Sun"**) is an Indian company. Ranbaxy Pharmaceuticals Canada Inc. is a subsidiary of Sun. During the Class Period, Sun, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A

33. The businesses of each of the Defendants Ranbaxy Pharmaceuticals Canada Inc. and Sun (collectively, "**Ranbaxy**") are inextricably interwoven with that of the other and, each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to RAN-Fentanyl Matrix Patch and RAN-Oxycodone CR.

x. The Roxane Defendants

34. Hikma Labs Inc. (formerly known as Roxane Laboratories Inc.) is an American company. During the Class Period, Hikma Labs Inc. directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

35. West-Ward Columbus Inc. (formerly known as Boehringer Ingelheim Roxane Inc.) is an American Company. During the Class Period, West-Ward Columbus Inc., directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A.

36. Hikma Pharmaceuticals PLC is a Jordanian company. During the Class Period, Hikma Pharmaceuticals PLC, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

37. The businesses of each of the Defendants Hikma Labs Inc., West-Ward Columbus Inc., and Hikma Pharmaceuticals PLC (collectively, "**Roxane**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada, including but not limited to Hydromorphone HCL, Oramorph SR, and Roxicet.

xi. Sanis

38. Sanis Health Inc. ("**Sanis**") is a Canadian company. During the Class Period, Sanis manufactured, marketed and sold Opioids in Canada, including but not limited to Oxycodone/Acet,

Tramadol/Acet, and Morphine SR.

xii. The Sandoz Defendants

39. Sandoz Canada Inc. is a Canadian company. During the Class Period, Sandoz Canada Inc. manufactured, marketed and sold Opioids in Canada including but not limited to Sandoz Fentanyl Patch, Sandoz Oxycodone, Fentanyl Citrate Injection SDZ, Morphine HP 25, Morphine HP 50, Sandoz Opium & Belladonna, Sandoz Methadone, Sandoz Morphine SR, Morphine Sulfate Injection USP, and Meperidine Hydrochloride Injection USP.

xiii. The Teva Defendants

40. Teva Canada Limited is a Canadian company. During the Class Period, Teva Canada Limited manufactured, marketed and sold Opioids in Canada.

41. Actavis Pharma Company (formerly Cobalt Pharmaceutical Company) is a Canadian company. During the Class Period, Actavis Pharma Company manufactured, marketed and sold Opioids in Canada.

42. Teva Pharmaceuticals USA, Inc., ("**Teva USA**") is an American company. During the Class Period, Teva USA, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada and the U.S.A

43. Teva Pharmaceutical Industries Ltd. ("**Teva Pharmaceutical**") is an Israeli company. Teva Canada Limited, Actavis Pharma Company and Teva USA are subsidiaries of Teva Pharmaceutical. During the Class Period, Teva Pharmaceutical, directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

44. The businesses of each of the Defendants Teva Canada Limited, Actavis Pharma Company,

Teva USA and Teva Pharmaceutical (collectively, "**Teva**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to Teva-Oxycocet, Teva-Tramadol / Acetaminophen, Teva-Fentanyl, Teva-Hydromorphone, Teva-Morphine SR, and ACT Oxycodone CR and CO Fentanyl.

xiv. The Valeant Defendants

45. Valeant Canada LP/ Valeant Canada S.E.C. ("**Valeant Canada**") is a Canadian company. During the Class Period, Valeant Canada manufactured, marketed and sold Opioids in Canada.

46. Bausch Health Companies Inc. ("**Bausch**") is a Canadian company. Valeant Canada is a division of Bausch. During the Class Period, Bausch directly or through its subsidiaries or affiliates, manufactured, marketed and sold Opioids in Canada.

47. The businesses of each of the Defendants Valeant Canada and Bausch (collectively, "**Valeant**") are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, marketing and sale of Opioids in Canada including but not limited to M.O.S.-SR (Morphine Hydrochloride), Cophylac, and Cophylac Drops.

48. Apotex, Bristol-Myers, Endo, Janssen, Pharmascience, Pro Doc, Jean Coutu, Mylan, Purdue, Ranbaxy, Roxane, Sanis, Sandoz, Teva, and Valeant (collectively, the "**Manufacturer Defendants**") have during the Class Period manufactured, marketed and sold in Canada prescription pain medications that contained Opioids under brand-names and generic counterparts.

THE DISTRIBUTOR DEFENDANTS

i. The Kohl & Frisch Defendants

49. The Defendant, Kohl & Frisch Distribution Inc., is a Canadian company. During the Class Period, Kohl & Frisch Distribution Inc. distributed Opioids to pharmacies, hospitals and other dispensaries across Canada.

50. The Defendant, Kohl & Frisch Limited is a Canadian company. During the Class Period, this Defendant manufactured, marketed, distributed and/or sold Opioids in Canada.

51. The Defendant AmerisourceBergen Canada Corporation ("**Amerisource**") is a Canadian Company. On or about March 28, 2013 Amerisource was acquired by Kohl & Frisch Limited. During the Class Period, Amerisource distributed Opioids to pharmacies, hospitals and other dispensaries across Canada.

52. The businesses of each of Defendants Kohl & Frisch Distribution Inc., Kohl & Frisch Limited and Amerisource (collectively "**Kohl & Frisch**"), are inextricably interwoven with that of the other and each is the agent of the other for the purposes of the distribution of Opioids in Canada.

ii. Jean Coutu

53. During the Class Period, Jean Coutu (as defined above) distributed Opioids to pharmacies, hospitals, and other dispensaries across Canada.

iii. Nu-Quest

54. The Defendant, Nu-Quest Distribution Inc. ("**Nu-Quest**") is a Canadian company. During the Class Period, Nu-Quest distributed Opioids to pharmacies, hospitals, and other dispensaries across Canada.

iv. Abbott

55. The Defendant, Abbott Laboratories Limited ("**Abbott**") is an American company with Canadian offices in Ontario and Quebec. During the Class Period, Abbott distributed Opioids to pharmacies, hospitals and other dispensaries across Canada.

v. Procurity

56. The Defendant, Procurity Inc. is a Canadian Company. During the Class Period, Procurity Inc. distributed Opioids to pharmacies, hospitals and other dispensaries across Canada.

57. The Defendants, Kohl & Frisch, Jean Coutu, Nu-Quest, Abbott, and Procurity, (collectively, the "**Distributor Defendants**") do now distribute or have at some point in time during the Class Period distributed Opioids to pharmacies, hospitals and other dispensaries across Canada.

E. THE DEFENDANTS CREATED AN OPIOID EPIDEMIC

i. BACKGROUND

58. Prescription Opioids are powerful pain reducing medications that have both benefits and potentially serious risks. Opioids help manage pain when properly prescribed for appropriate conditions. However, they can cause serious harm, including addiction, overdose, and death. Most Opioids are controlled substances listed under Schedule I of the *Controlled Drugs and Substances Act,* SC 1996, c 19.

59. All Opioids affect the human body in the same way. They are agonists that work by binding with opioid receptors on the spinal cord and in the brain, numbing pain reception and encouraging

the release of dopamine, which can lessen the perception of pain. In addition to their pain controlling effects, Opioids can also induce an a euphoric high, which increases their addiction potential.

60. With continued use, patients grow tolerant to Opioids. This results in a decrease in the release of dopamine and further induces cravings for the drugs. As patients become tolerant, they require progressively higher doses over time, which increases the risks of withdrawal, addiction and overdose.

61. At higher doses, Opioids can slow a user's breathing, causing potentially fatal respiratory depression. Patients who delay or discontinue long-term Opioid use often experience extended withdrawal symptoms including nausea, muscle pain, depression, anxiety, diarrhea, vomiting, restlessness, and chills.

62. Until the mid-1990s, Opioids were prescribed sparingly and only for short-term conditions such as acute injury or illnesses, surgery, or palliative care. Opioids were thought to be too addictive to treat pain conditions which would require long-term use of such drugs. This was the medical orthodoxy which governed the use of Opioids in Canada and the U.S.A. to that time.

ii. THE MANUFACTURER DEFENDANTS DEVISE A "NEW NARRATIVE" TO EXPAND THE PRESCRIPTION MARKET FOR OPIOIDS

63. In the mid-1990s, the Manufacturer Defendants introduced various time-release formulations of Opioids, which they claimed was safer than traditional Opioids because they could be taken less often. By promoting time-release formulations as safe for long-term use, the Defendants were able to market these products for a wider range of pain conditions than previously possible and thus sell much more of its product.

64. The other Manufacturer Defendants recognized that selling Opioids for long-term use would be very lucrative.

65. The Manufacturer Defendants developed and promoted a false and misleading new narrative about Opioids (the "**New Narrative**") intended to broaden the market for, and increase sales of, these drugs. Each of the Manufacturer Defendants contributed to promoting the New Narrative. With the New Narrative, the Manufacturer Defendants sought to change the prescribed uses of Opioid drugs, encouraging the widespread and long-term use of Opioids for chronic conditions such as back pain, migraines, sports injuries and arthritis.

66. According to the New Narrative, pain was undertreated and under-prioritized by healthcare professionals, and Opioids were a safe and effective way to treat it. To promote the New Narrative, each of the Manufacturer Defendants began to vigorously market Opioids as less addictive than they knew them to be, and to promote Opioids as safe, effective, and appropriate for long-term use in routine pain conditions when they knew or reasonably ought to have known that was not the case.

67. Critically, the Manufacturer Defendants devised and promoted the New Narrative for the purpose of expanding the market for Opioid drugs when they knew or ought to have known that the New Narrative was false and contrary to the best interests of patients who required medical treatment for pain. The Manufacturer Defendants knew or ought to have known at all material times that their Opioid products were highly addictive, and that marketing them as safe for long-term use would inevitably lead to greater Opioid addiction and death.

68. The inventor of OxyContin, Robert Kaiko, warned in 1997 that he was "very concerned" about the danger of selling Opioids without strict controls. He wrote: "oxycodone containing products are still among the most abused opioids in the U.S.", and predicted that "If OxyContin is

uncontrolled,… it is highly likely that it will eventually be abused." The Manufacturer Defendants nevertheless aggressively marketed time-release Opioids as having minimal abuse potential.

69. In 2001, the Janssen defendants' scientific advisory board warned the Janssen defendants about the dangers posed by its Opioid products, including that:

(a) The primary marketing measures Janssen used to promote its Opioids products, in particular its transdermal fentanyl patch Duragesic, were misleading and ought not to be disseminated;

(b) No data existed to support Janssen's claim that Duragesic had a low abuse potential; and

(c) Duragesic was dangerous and an increase in Duragesic sales would cause an increase in abuse and addiction.

70. The advisory board concluded: "Do not include the abuse message. Do not sell opioids on the abuse issue". In the face of this clear warning, Janssen continued to promote Duragesic and its other Opioid products on the false premise that they had a low abuse potential.

71. The other Manufacturer Defendants were similarly aware that marketing their Opioid products on the premise that they had a low abuse potential was dangerous, but they continued to do so.

72. The Manufacturer Defendants concealed these warnings from regulators, health care professionals, the Plaintiff, and Class Members.

73. The Manufacturer Defendants created and promulgated the New Narrative deceitfully, or alternatively, negligently. The Manufacturer Defendants did not warn of the risks of the new and expanded use of Opioids they recommended in the New Narrative. To the contrary, they deliberately downplayed those risks in an effort to displace the medical orthodoxy that Opioids

were too addictive and too dangerous for widespread or long-term use

74. The Manufacturer Defendants targeted healthcare professionals and the general public in Canada with the New Narrative. They sought to create a medical demand for Opioid drugs that did not then currently exist in the Canadian marketplace. Their goal was to change perceptions of Opioids as a class of drugs, over and above touting the virtues of a particular Opioid drug.

75. The misrepresentations and omissions critical to creating the New Narrative and expanding the prescription market for Opioid drugs, which will be detailed below, focused on: 1) touting the necessity, efficacy, and safety of long-term use of Opioids for the treatment of chronic pain; and 2) downplaying the risk of addiction. On the latter point, the Manufacturer Defendants promulgated the inaccurate and fraudulent message that concerns about addiction were overblown; that advances in abuse-deterrent pill technology made addiction more unlikely, and that simple screening and monitoring tools would be able to prevent it.

76. Worse, the Manufacturer Defendants claimed that if a patient exhibited all the classic symptoms of addiction, those were merely signs that his/her pain was undertreated: the solution was more Opioid drugs. This often led to an un-interrupted lifelong regimen of Opioids. While this was debilitating and potentially deadly for the patient, for the Defendants it meant they would sell more Opioids. The Defendants' advised health professionals to adopt prescribing practices that would maximize their sales.

iii. PARTICULARS AND MISREPRESENTATIONS IN THE NEW NARRATIVE

1. Minimal risk of addiction

77. The Manufacturer Defendants' marketing aimed to, and succeeded in, persuading healthcare professionals that any risk of addiction to Opioids could be alleviated through careful

supervision by doctors. The Manufacturer Defendants' marketing also suggested that only certain types of patients were at risk for addiction. The risks of Opioid abuse and addiction were consistently downplayed by the Defendants as limited to illegitimate patients, or those with inadequate medical supervision. The narrative advanced was that "there was very little risk of addiction from the proper uses of these drugs for pain relief."

78. The Manufacturer Defendants placed advertisements in, inter alia, *Canadian Family Physician* to promote the sale of Opioids. The advertisements falsely downplayed the risk of addiction in patients prescribed Opioids.

79. In 2003 the Janssen defendants published a product monograph for Duragesic in *Le médecin du Québec*. The monograph falsely stated that addiction was relatively rare with appropriate dosage for chronic pain. It erroneously advised doctors not to let the risk of physical dependence on Duragesic influence their decision to prescribe opioids.

80. The Manufacturer Defendants represented that even high-risk patients could be prescribed Opioids if closely managed. This led healthcare professionals to believe that they could safely prescribe Opioids to "appropriate" patients without fear that these patients would become addicted.

81. The Manufacturer Defendants created the term "pseudoaddiction" to promote the narrative that patients were not actually addicted to Opioids. The Defendants suggested it was unfair to stigmatize patients as addicts when they just needed a higher prescription to alleviate their "pain"

82. The aim of the New Narrative was to induce healthcare professionals to believe that Opioids could be safely prescribed to appropriate patients without fear that such patients would become addicted. There are no legitimate peer-reviewed studies to support the theory of pseudoaddiction. This term was created by the Defendants to downplay a risk they knew or ought

to have known had materialized among their consumers. It was used to allay legitimate concerns and increase sales and profits.

83. The Manufacturer Defendants' response to reports that their Opioid products were causing widespread addiction, overdose, and death was often to blame and stigmatize the victims. The Defendants portrayed patients who became addicted to their Opioid products as drug abusers and criminals.

2. Opioids would improve patient function and quality of life

84. The Manufacturer Defendants claimed that long-term Opioid use would improve patients' function and quality of life. The Manufacturer Defendants created and sponsored materials that promoted this claim and distributed or made available these materials to prescribers. These claims were unsupported by proper clinical evidence.

85. The Manufacturer Defendants' marketing materials omitted reference to or details regarding the known risks of chronic Opioid therapy. They instead emphasized or exaggerated risks of competing products such as over-the-counter acetaminophen or nonsteroidal anti-inflammatory drugs ("NSAIDs") like ibuprofen. These claims were not supported by scientific evidence.

3. Withdrawal from Opioids could be easily managed

86. The Manufacturer Defendants promoted inaccurate and misleading messaging regarding the ease of managing patients' withdrawal from Opioids. This misleading messaging was promulgated knowing that healthcare professionals would be more likely to presecribe chronic Opioid therapy if they believed that withdrawal would not be not problematic.

87. The Manufacturer Defendants asserted that certain Opioids were less likely to cause withdrawal symptoms than other pain medications. The Manufacturer Defendants also claimed that physical dependence could be easily addressed by gradually decreasing dosages to avoid withdrawal symptoms. The Manufacturer Defendants failed to disclose the actual symptoms of withdrawal, or their severity. These symptoms include nausea, muscle pain, depression, anxiety, diarrhea, vomiting, restlessness, and chills and can continue long after use is discontinued. These symptoms, and their extreme severity, make withdrawal management more challenging and less likely to success than represented by the Defendants.

4. Long-term use of Opioids was beneficial

88. The Manufacturer Defendants sponsored and published inaccurate reports that suggested that Opioids provide effective long-term treatment for chronic pain conditions.

89. The Manufacturer Defendants claimed that there were significant upsides to long-term Opioid use. They falsely suggested that these so-called benefits were supported by proper scientific evidence. Opioids were consistently promoted by the Manufacturer Defendants as safe for the treatment of chronic pain and other long-term conditions.

5. Failure to warn of adverse effects and to disclose risks of Opioid use

90. The Manufacturer Defendants virtually ignored the risks of Opioid use in their promotion of their Opioid products. They failed to warn and inform both medical professionals and patients alike of the risks and dangers associated with Opioid use, including the risks of overdose, addiction respiratory depression and death.

91. In addition to failing to disclose risks of addiction, overdose and respiratory depression in marketing materials, the Manufacturer Defendants routinely ignored the risks of hyperalgesia

linked to Opioid use. With hyperalgesia, the patient becomes more sensitive to pain over time and may experience hormonal dysfunction, decline in immune function, mental clouding, confusion and dizziness, increased falls and fractures in the elderly, neonatal abstinence syndrome, and potentially fatal interactions with alcohol or benzodiazepines.

92. The Manufacturer Defendants frequently contrasted the lack of a maximum dosage for Opioids with the risks of NSAIDs. The Manufacturer Defendants deceptively described the risks from NSAIDs while failing to disclose the risks of Opioids.

93. Alternatively, whatever warnings were provided in the packaging or in material provided were grossly insufficient in the face of the well-known risks of long-term use of Opioids and the aggressive marketing campaign promulgated by the Manufacturer Defendants as detailed below.

94. On October 23, 2018, Health Canada added requirements under the Food and Drug regulations in order to ensure that patients would finally "*receive clear information about the safe use of opioids and the risks associated with their use.*"

95. The new regulations require the Manufacturer Defendants include a warning sticker and information handout with prescriptions for all opioids that appear in Part A of Health Canada's "List of Opioids" dated May 2, 2018. The required warning label clearly indicates that opioids can cause dependence, addiction, and overdose. The information handout provides patients with a serious and explicit warning about opioid use, including that the use of opioids can result in overdose, addiction, physical dependence, life-threatening breathing problems, worsening rather than improving pain and withdrawal.

6. Long-acting Opioids would provide long-term pain relief

96. The Manufacturer Defendants marketed long-acting Opioids as providing 12 hours of pain

relief. The Manufacturer Defendants knew that this representation was false and that long-acting Opioids were not effective for 12 hours in many, if not most, patients.

97. The Manufacturer Defendants suggested to prescribers that higher dosing, rather than more frequent dosing was safer for patients. The opposite was and is true. When Opioid dose impact diminishes, patients experience end-of-dose failure, they begin to experience withdrawal symptoms, including an intense craving for Opioids. They subsequently feel a euphoric high with the next dose. These cravings and subsequent euphoria are hugely exacerbated by higher dosing.

98. The Manufacturer Defendants knew that higher dosing was more profitable on a per pill basis and led to longer-term use and dependence. By instructing doctors to prescribe increasingly stronger doses, the Manufacturer Defendants sought to maximize their profits from each patient who was prescribed Opioids.

7. Minimal risk of developing tolerance

99. Continued use of Opioids causes users to develop a tolerance for the drug and results in the need for higher doses to obtain the same effects. This in turn increases the risk of withdrawal, addiction, respiratory depression overdose and death.

100. The Manufacturer Defendants falsely claimed that Opioids were unlikely to cause tolerance, or less likely to cause tolerance than other pain medications.

101. The Manufacturer Defendants encouraged medical professionals to prescribe higher doses of Opioids to their patients, rather than more frequent doses, and to prescribe additional rescue medication doses to combat the effects of end-of-dose failure. They misled healthcare professionals and patients alike by failing to warn them that increased use of opioids also increases the risks of dangers associated with such use.

iv. AGGRESSIVE PROMOTION AND MARKETING OF THE NEW NARRATIVE

102. The Manufacturer Defendants engaged in aggressive marketing and sales practices which were entirely inappropriate for the distribution of dangerous and addictive drugs. The Manufacturer Defendants failed to properly warn consumers and healthcare professionals of the risks and dangers associated with Opioid use in the Information for Patients and Product Monographs found in the Compendium of Pharmaceuticals and Specialties ("**CPS**").

103. The Manufacturer Defendants engaged in the following specific practices to promote and market the New Narrative:

1. Healthcare Professionals

104. The Manufacturer Defendants targeted physicians and healthcare practitioners with false and misleading statements regarding the safety and efficacy of utilizing Opioid drugs for long term, chronic pain. The objective was to increase prescriber demand and expand the prescription market for Opioid drugs.

105. The Manufacturer Defendants' marketing efforts were aimed in particular at family doctors and medical students, who frequently saw patients with chronic pain conditions and who did not have the level of training to verify whether the Manufacturer Defendants' claims concerning the safe and effective nature of the drugs were correct.

106. The Manufacturer Defendants devised multiple schemes to facilitate direct marketing to physicians. Their strategies were aggressive, with an emphasis on in-person contact.

107. Pharmaceutical sales representatives, known as "detailers", met personally with physicians. These direct-to-physician visits by drug representatives are well-recognized as highly effective tools for increasing prescriptions for any drug. The Manufacturer Defendants used sales

representatives to detail their Opioid drugs to physicians throughout Canada.

108. The Manufacturer Defendants also flooded these targets with advertisements and messages reinforcing the necessity, safety and efficacy of opioid drugs for treatment of long-term chronic pain. Physician-oriented advertisements containing inaccuracies and false claims were disseminated in print advertisements in medical journals such as the *Canadian Medical Association Journal*, which is mailed to almost every physician in Canada. The Manufacturer Defendants' websites included sections for prescribers containing similar information. Healthcare professionals in Canada were further subjected to and influenced by promotional material produced by the Manufacturer Defendants in the United States.

109. The Manufacturer Defendants enlisted Key Opinion Leaders ("**KOL**"s) - peer physicians purportedly focused on patient health – to espouse pro-opioid positions and campaign on behalf of Opioid drugs. The Manufacturer Defendants knew that healthcare professionals rely heavily on their peers for guidance, and that KOL's would provide the false appearance of unbiased and reliable support for increased use of Opioids.

110. The Manufacturer Defendants developed and used schemes to financially reward healthcare providers who prescribed their Opioid drugs. This included the development of speakers' bureaus whereby high prescribers were paid to give presentations on the need to prescribe Opioid drugs and/or consult them.

111. The Manufacturer Defendants created, funded and controlled various purported medical societies, think tanks, and/or patient advocacy groups ("**Front Groups**"), with the purpose of advancing the New Narrative. Their primary purpose was to raise awareness of the pain epidemic and to encourage physicians to combat that untreated pain with Opioid drug prescriptions. Groups such as the Canadian Pain Coalition, the Chronic Pain Association of Canada, and People in Pain

Network received funding from the Manufacturer Defendants. These Front Groups produced educational materials containing information that appeared independent and reliable, but was in fact, false and misleading.

112. For example, in 2002 the Canadian Pain Society published a consensus statement and guidelines on the *Use of opioid analgesics for the treatment of chronic non-cancer pain.* The document aimed to raise awareness and to "educate" both Canadian physicians and Canadian regulators in understanding the role of opioid analgesics in the treatment of chronic non-cancer pain. The guidelines stated that:

(a) "Pain of all types is undertreated in our society"

(b) "Health professionals' fears regarding iatrogenic addiction… create a significant barrier to the optimum prescribing of opioids for pain"

(c) "Tolerance and/or physical dependence on regular opioid use in a patient in pain are not, by themselves, evidence of an addictive disorder"

(d) "A patient with a past history of, or risk factors for, addiction should not necessarily be precluded from a careful trial of opioid therapy"

(e) "Opioid analgesics are generally safe medications when prescribed with appropriate monitoring".

113. The Manufacturer Defendants also funded, either directly or indirectly (through their Front Groups and KOLs) marketing presentations that were deceptively presented as unbiased continuing medical education programs ("**CMEs**"), a requirement for many physicians to retain their licenses.

114. The Manufacturer Defendants controlled the messaging of their Front Groups and KOLs.

115. The Manufacturer Defendants' marketing campaigns also targeted students training to enter the medical profession. By 2007, companies selling Opioids had given more than $500,000 in

funding to the University of Toronto. Course material in medical programs contained information aligned with the interests of the Manufacturer Defendants by minimizing Opioid related harms relative to those of other analgesics, overstating the evidence of their effectiveness.

116. The Manufacturer Defendants knew or ought to have known that their representations regarding the risks and benefits of Opioids were not supported by, or were contrary to, proper scientific evidence. The Manufacturer Defendants also knew that doctors and patients rely heavily on educational materials, such as treatment guidelines, continuing medical education seminars, articles and websites to inform their treatment decisions. The defendants manufactured a body of scientific literature, concealing its source. Where the KOLs and Front Groups pointed to scientific evidence allegedly supporting their claims of efficacy and safety, the authors were invariably industry-paid KOLs.

117. As a result of the Manufacturer Defendants' successful marketing activities, the prescribing of Opioids as a long-term means to treat chronic pain became routine and widespread.

118. In June 2018, the Minister of Health sent a letter to manufacturers and distributors of opioids in Canada calling on them to stop all marketing and advertising of opioids to health care professionals on a voluntary basis.

2. Consumers

119. All of the foregoing conduct aimed at healthcare professionals, was also intended to influence and did influence consumers/ patients. The Manufacturer Defendants intended that healthcare professionals would accept the New Narrative and convey it to their patients, who would as a result request prescriptions for opioids.

120. The Manufacturer Defendants also pushed the New Narrative on consumers by funding Front Groups that purported to be patient advocacy groups. These groups downplayed the danger of Opioid addiction, while encouraging patients to seek out medical treatment for chronic pain.

121. For example, in 2001, the Janssen defendants provided grants to sponsor the Canadian Pain Society's 2001 "Patient Pain Manifesto", a public awareness and education campaign targeted at hospital patients and their families regarding "their rights in the management of their pain." A backgrounder included with a press release on the subject stated:

> **Fiction:** Patients will become addicted to painkillers.
>
> **Fact:** Pain killers given in a controlled way to people who are having moderate to severe levels of pain almost never leads to addiction. There are a variety of treatments available to help prevent pain, which include a wide range of drugs as well as non-pharmacological techniques such as heat or relaxation. (emphasis added)

122. As part of the "Patient Pain Manifesto" initiative, the Canadian Pain Society intended on distributing a million promotional bookmarks to patients, families and health professionals. The bookmarks stated:

> **Did you know that**
> It is extremely rare that people become addicted to the pain killers they are given for pain. Problems with pain killers (constipation, itching, nausea) can be controlled.

v. THE NEW NARRATIVE SUCCEEDED AND AN OPIOID EPIDEMIC ENSUED

123. The New Narrative was incredibly successful at increasing Opioid prescription, use and addiction. By the mid-2000s, perceptions in the medical community regarding prescribing Opioids had changed drastically. There was a staggering increase in prescriptions of Opioids across

Canada, including for treatment of sports injuries, chronic pain and other long-term conditions. Since the early 1980s, the volume of opioids sold to hospitals and pharmacies in Canada has increased by more than 3000%. In 2016, over 20 million prescriptions for opioids were dispensed in Canada, equivalent to nearly one prescription for every adult over the age of 18 years. That same year, the Defendants sold approximately $503 million in oral solid opioids in Canada.

124. Each of the Manufacturer Defendants, through their acts and omissions, contributed to the creation and promotion of the New Narrative. In creating and promoting the New Narrative, each of the Manufacturer Defendants acted in furtherance of a common design, the object of which – broadening the market for and increasing the sale of Opioids without regard for the risk of addiction and at the expense of the class – was wrongful or unlawful.

125. Each of the Distributor Defendants, through their acts and omissions, contributed to the success of the New Narrative. By doing so, the Distributor Defendants acted in furtherance of a common design with the Manufacturer Defendants, the object of which – broadening the market for and increasing the sale of Opioids without regard for the risk of addiction and at the expense of the class – was wrongful or unlawful.

F. Distribution, Drug Diversion, And Expansion of the Black Market

126. In addition to expanding the prescription market for Opioid drugs, both the Manufacturer Defendants and the Distributor Defendants enabled the expansion of the black market, paving the way for the public health crisis.

i. Distribution of Opioids

127. The opioid supply chain begins with the manufacturers such as the Manufacturer Defendants, who manufacture and package the pills. The manufacturers then transfer the opioids

to wholesale distributors, such as the Distributor Defendants. Wholesale distributors then dispense the opioids to hospitals and pharmacies. Hospitals and pharmacies then dispense the drugs to patients.

128. During the Class Period, the Defendants supplied Opioids in quantities that they knew or should have known exceeded any legitimate market.

129. The Defendants knew or ought to have known that there was a suspicious rise in distribution of Opioids to retailers in Canada. The Defendants were in a unique position to have this awareness, as they possessed extensive data on the extent of manufacturing and sales of Opioids in Canada. The Defendants failed to do anything about suspicious orders of Opioids or to prevent or reduce diversion.

130. The Distributor Defendants collected information relating to suspicious prescribing and pharmacy dispensing patterns of Opioids. The Distributor Defendants failed to put in place systems to identify suspicious orders of Opioids. The Distributor Defendants further failed to report those orders they did identify as suspicious, and failed to conduct due diligence.

131. By supplying the market with more Opioids than could be used for legitimate medical purposes and failing to report suspicious orders, loss, or theft of Opioids, the Defendants created, increased and failed to prevent a foreseeable risk of harm to the Class members.

ii. The introduction of abuse-deterrent formulations

132. By the late-1990s, many medical professionals had raised concerns over the presence and prevalence of prescription Opioids on the black market. A study in the *Canadian Medical Association Journal (CMAJ)* showed that the Defendants' Opioid products were highly valued on the black market. For example, Opioid pills sold for as much as $75 a tablet, 15 times their price

at a pharmacy. This high street value demonstrated that Opioids were coveted on the black market. The Defendants were aware of or should have been aware of the *CMAJ* study.

133. As more and more Canadians became addicted to Opioids, public concern grew about the diversion of the Defendants' Opioids into the black market.

134. By 2012, "oxy" had become a household name synonymous with Opioid abuse. In February 2012, Purdue removed OxyContin from the Canadian market in response to such concerns.

135. Despite this removal, the Defendants continued to market and distribute other Opioids that did not have abuse-deterrent formulations, knowing that these Opioids would be diverted to the black market.

136. By November 27, 2012, two days after Purdue's patent on OxyContin expired, the Apotex, Teva, and Pharmascience defendants had all obtained approval to market generic versions of OxyContin (oxycodone-CR). The defendant Ranbaxy introduced a generic oxycodone-CR product the following year. Generic oxycodone-CR did not have an abuse deterrent formulation. These Defendants put generic oxycodone-CR on the market knowing that Purdue had months earlier pulled OxyContin from the market because it was being abused and diverted to the black market.

137. The risk posed by these generic oxycodone-CR products was so serious that by December 2012, the White House Office of National Drug Control Policy sent an alert to law enforcement agencies, particularly those along the Canadian border. The alert told law enforcement to expect these generic OxyContin products to show up in the United States, where OxyContin was no longer available.

138. The Defendants also marketed alternative Opioid products without abuse deterrent

formulations as a substitute for OxyContin, including but not limited to transdermal fentanyl patches and hydromorphone.

139. Overall Opioid prescriptions in Canada ultimately increased after OxyContin was removed from the market.

G. THE PUBLIC HEALTH CRISIS

140. As a result of the Defendants' conduct, many Canadians have become addicted to Opioids. More than 30,000 Canadians are estimated to have died of Opioid overdoses in the past two decades. On average, approximately 11 Canadians continue to die of Opioid overdoses every day. The death toll continues to climb. Young Canadians, aged 15-24 are the fastest growing population being admitted to hospital for Opioid overdoses.

141. Between 2000 and 2012, there has been a five-fold increase in the prevalence of neonatal abstinence syndrome ("**NAS**") in Canada. NAS is the condition that impacts infants who were exposed to Opioids in utero. These infants are born physically dependent on Opioids. NAS often leads to withdrawal symptoms after birth, and in many instances, newborn babies must be given Opioids postpartum to ween them from their addiction. There were approximately 1,744 hospitalizations for NAS in 2015-2016, a 20% increase form 2012-2013.

142. Canada's Chief Public Health Officer has called the state of Opioid addition a "major public health crisis".

H. PROCEEDINGS IN THE UNITED STATES

143. Opioid Manufacturers and Distributors in the United States, including many of the Defendants' parent and/or related corporations, engaged in largely the same conduct as that described above. Indeed, the strategies employed by the Defendants were largely coordinated with

and/or directed by their U.S. parents and/or related corporations.

144. On May 10, 2007, the U.S. Attorney's Office for the Western District of Virginia announced that the Purdue Frederick Company Inc. had pled guilty to misleading marketing in the U.S. Purdue paid $600 million USD in criminal and civil settlements. Three executives pleaded guilty to as individuals to criminal misbranding and were fined $34.5 million USD. An Agreed Statement of Facts, signed by Purdue executives, states that "Purdue supervisors and employees, with the intent to defraud or mislead, marketed and promoted Oxycontin as less addictive, less subject to abuse and diversion, and less likely to cause tolerance and withdrawal than other pain medications [...]".

145. On August 26, 2019, the District Court of Cleveland County in the State of Oklahoma ruled that Johnson & Johnson and its various pharmaceutical subsidiaries had created a public nuisance by fueling the Opioid epidemic in that state, and condemned them to pay $460 million. Prior to the trial, Purdue Pharma L.P. and Teva Pharmaceutical Industries USA Inc. settled with the state of Oklahoma for $270 million USD and $85 million USD respectively.

146. On September 15, 2019, Purdue Pharma L.P. filed for Chapter 11 bankruptcy in the U.S.

147. On October 21, 2019, Teva Pharmaceutical Industries Ltd., along with three U.S. distributors, settled another claim with two Ohio counties on the eve of trial for a combined amount of $260 million USD.

148. On November 24, 2020, Purdue Pharma L.P. pleaded guilty in federal court in Newark, New Jersey, to conspiracies to defraud the United States and violate the anti-kickback statute. As part of the plea agreement, Purdue admitted that it marketed and sold dangerous opioid products to healthcare providers, even though it had reason to believe those providers were diverting them

to abusers. Purdue admitted that it lied to the U.S. Drug Enforcement Administration about steps it had taken to prevent such diversion, fraudulently increasing the amount of its products it was permitted to sell. Purdue also admitted to paying kickbacks to providers to encourage them to prescribe even more of its products.

149. On July 21, 2021, Johnson & Johnson and three U.S. distributors, including AmerisourceBergen, reached a $26 billion USD settlement aimed at resolving thousands of state and local government lawsuits over their alleged mishandling of Opioids.

I. CAUSES OF ACTION

i. Breach of the *Competition Act*

150. Each of the Manufacturer Defendants, as a result of their promotion of the New Narrative, are liable under sections 36 and 52 of the *Competition Act,* R.S.C. 1985, c. C-34 for knowingly or recklessly making a representation to the public that is false or misleading in a material respect.

151. By creating and aggressively promoting the New Narrative, the Manufacturer Defendants' misrepresentations included the following (the "**Opioid Misrepresentations**"):

(a) That the risk of opioid addiction was low, and that doctors could use screening tools to exclude patients who might become addicted;

(b) That use of Opioids resulted in improved function;

(c) That withdrawal from opioids could easily be managed;

(d) That Opioids were appropriate for long-term use;

(e) That Opioids had fewer and less significant adverse effects than other pain management drugs;

(f) That use of certain opioids provided patients with long-lasting pain relief;

(g) That increased dosages of Opioids could be prescribed without disclosing the increased risks; and

(h) That "abuse deterrent" formulations of opioids were effective.

152. As a result of the conduct described in section D above, the Manufacturer Defendants breached s. 52 of the *Competition Act,* and thereby committed an unlawful act because these misrepresentations:

(a) were made for the purpose of promoting the business interests of the Defendants;

(b) were made to the public; and

(c) were false and misleading in a material respect.

153. The Plaintiff and Class Members suffered damages as a result of the Manufacturer Defendants' unlawful breach of s. 52 of the *Competition Act* and seek those damages, as well as their costs of investigation, pursuant to s. 36 of the *Competition Act.*

ii. Fraudulent Misrepresentation and Deceit

154. As described above, the Manufacturer Defendants created the New Narrative and aggressively promoted it despite knowing that it was false, materially misleading, and deficient. Alternatively, the Manufacturer Defendants were reckless as to whether the New Narrative was true or false. The New Narrative included the Opioid Misrepresentations, which were fraudulent misrepresentations.

155. The Manufacturer Defendants promoted the Opioid Misrepresentations to the public at large, including the Plaintiff and Class Members, as the part of a uniform and consistent sales, advertising, and marketing campaign. The Defendants intended and encouraged the public, including the Plaintiff and Class Members, to rely on them.

156. The Plaintiff and Class Members relied on the Opioid Misrepresentations in making personal healthcare decisions, including whether to take Opioids.

157. The Manufacturer Defendants also made the Opioid Misrepresentations to healthcare professionals, intending that these healthcare professionals would believe the misstatements and in turn repeat them to their patients, who would rely on them. The Manufacturer Defendants knew that the healthcare professionals would repeat the Opioid Misrepresentations to the patients, and deliberately abstained from intervening to prevent or correct this.

158. The Plaintiff and Class Members suffered damages as a result of their reliance on the Opioid Misrepresentations.

iii. Negligence of the Manufacturer Defendants

159. The Manufacturer Defendants were negligent in the research, development, manufacture, testing, regulatory licensing, sale and marketing of Opioids in Canada. The Manufacturer Defendants knew at all material times that the New Narrative and Opioid Misrepresentations were false, or were reckless as to whether they were true or false.

160. The Manufacturer Defendants knew or ought to have known that Opioids pose serious health risks, including addiction, which risks were not disclosed.

161. At all material times, the Manufacturer Defendants owed a duty of care to the Plaintiff and the Class Members:

(a) to properly develop, manufacture, test, license, sell and market Opioids;

(b) to properly label, market, and sell Opioids;

(c) to ensure that Opioids were labelled, marketed, and sold for their intended or reasonably foreseeable use;

(d) to adequately test their Opioid drugs in a manner that would fully disclose the magnitude of the risks associated with their use, particularly the risk of addiction;

(e) to monitor, investigate, evaluate and follow up on improper or adverse reaction to the use of Opioids in Canada;

(f) to properly supervise their employees and consultants;

(g) to warn the Plaintiff and Class Members that Opioids carried a significant risk of addiction, tolerance, abuse;

(h) to provide adequate, updated and current warnings and information on the risks associated with the use of Opioids as such information became available;

(i) to ensure that healthcare professionals were kept fully and completely informed of all risks associated with use of Opioids, including their addictive properties;

(j) to properly and promptly inform Health Canada and other regulatory agencies of the changing and increasing risks associated with Opioid use; and

(k) to provide clear and proper instructions to healthcare professionals and patients, including precautions to be taken, so as to avoid injury or damage from Opioids.

162. The Manufacturer Defendants breached the standard of care owed to the Plaintiff and Class Members and the harm they caused to the Plaintiff and Class Members, which includes but is not limited to abuse, addiction, and death, was foreseeable.

163. The Manufacturer Defendants' breaches of the standard of care include, but are not limited to:

(a) asserting false statements and omitting material facts regarding the benefits of and evidence for the use of Opioids for chronic pain, while understating their very serious risks, including the risk of addiction;

(b) marketing and promoting Opioids for the treatment of long-term pain without any or adequate research proving that such use is safe and effective, and/or that the benefits of such use outweigh the risks;

(c) failing to monitor feedback from the market, including reports as early as in or around 1997-1998 that Opioids were being abused and were associated with the high risk of addiction;

(d) failing to warn doctors and the general public about the risks associated with Opioid use, even after it became apparent that the New Narrative was false and misleading;

(e) failing to conduct the necessary research and testing to determine the risks associated with Opioid use, particularly for the treatment of long- term pain;

(f) failing to conduct follow up testing or monitor Opioid use once Opioids began to be consistently prescribed for long-term pain;

(g) failing to adequately train sales representatives to provide accurate information regarding appropriate use of Opioids and risks associated with their use;

(h) deliberately or recklessly misstating research findings regarding the risks and benefits of Opioids; and

(i) knowingly misstating research findings, knowing that the Plaintiff and its' residents would rely on their misrepresentations and omissions, and knowing that such reliance would cause the Plaintiff to suffer damages.

164. The Manufacturer Defendants' common law duties and the applicable standard of care are informed by statutory requirements imposed on them, including as "manufacturers" under the *Food and Drugs Act,* R.S.C. 1985, c. F-27 [the "***FDA***"] and the *Food and Drug Regulations*, CRC, c. 870 [the "***FDR***"], and as "licensed dealers" under the *Controlled Drugs and Substances Act*, SC 1996, c19 and the *Narcotic Control Regulations*, CRC, c. 1041 [the "***NCR***"]. These requirements include:

(a) The prohibition in s. 9(1) of the *FDA*, against labelling, packaging, selling or advertising drugs in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety;

(b) The requirements imposed by s. 21.71 of the *FDA* to make publicly available information concerning clinical trials or investigational tests of drugs;

(c) The requirement imposed by s. C.01.012 of the *FDR* to conduct all necessary investigations before making representations regarding the site, rate or extent of release to the body of a medicinal ingredient of a drug, or the availability to the body of a medicinal ingredient of the drug;

(d) The requirement imposed by s C.01.017 of the *FDR* to report serious drug reactions within 15 days after receiving or becoming aware of the information.

(e) The requirements imposed by s. C.01.018(1) of the *FDR* to prepare annual summary reports of all information relating to adverse drug reactions, and to report whether there has been a significant change in what is known about the risks and benefits of the drug;

(f) The requirements imposed by s. C.02.020(1) of the *FDR* to maintain records of product testing and completion thereof;

(g) The requirements imposed by s. C.02.022(1) of the *FDR* to maintain records of the sale of drugs;

(h) The requirements imposed by s. C.02.023(1) of the *FDR* to record, investigate, and if applicable, take corrective action in respect of complaints regarding the quality, deficiencies, or hazards of a drug;

(i) The requirements imposed by s. 15 of the *NCR* to keep records of

i. the name, quantity and form of any narcotic sold or provided, the name and address of the person to whom it was sold or provided and the date on which it was sold or provided;

ii. the name and quantity of any narcotic produced and the date on which it was placed in stock;

iii. the name and quantity of any narcotic in stock at the end of each month;

(j) The requirement imposed by s. 20 of the *NCR* to report any loss or theft of a narcotic

within 10 days of discovery of such loss or theft;

(k) The procedural requirements imposed by s. 27 of the *NCR* with respect to the sale of narcotics.

iv. Negligence of the Distributor Defendants

165. As licensed dealers permitted to distribute Opioids in Canada, the Distributor Defendants owed a duty of care to the plaintiff, the Class Members and the general public in the safe distribution and sale of Opioids to pharmacies and hospitals given the foreseeability of harm associated with the use of Opioids.

166. The Distributor Defendants breached the standard of care owed to the plaintiff and Class Members in the circumstances. The harm that resulted, which includes but is not limited to abuse, addiction, and diversion of Opioids, was foreseeable. Reasonably prudent Distributors would know that failing to report suspicious orders would exacerbate problems of diversion and non-medical use of Opioids, and thus the proliferations of the black market.

167. The Distributor Defendants' negligence includes but is not limited to:

(a) failing to exercise proper judgment in reporting the loss and/or theft of units;

(b) failing to provide effective controls and procedures to guard against theft and diversion of Opioids;

(c) failing to exercise proper judgment in reporting suspicious orders or refusing to fill them;

(d) failing to report orders from customers which deviated from previous order patterns or ordering methods, which they knew or ought to have known could lead to the diversion of Opioids;

(e) using unsafe distribution practices;

(f) failing to acquire or utilize special knowledge or skills that relate to the dangerous

activity of selling opioids in order to prevent or ameliorate such significant dangers; and,

(g) failing to review prescription orders for red flags.

168. The scope of the Distributor Defendants' duty of care to the Plaintiff and the Class Members was further informed by statutory requirements imposed on them by the *FDA,* the *FDR*, and the *NCR*, including:

(a) The prohibition in s. 9(1) of the *FDA*, against labelling, packaging, selling or advertising drugs in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety;

(b) The requirements imposed by s. C.02.022(1) of the *FDR* to maintain records of the sale of drugs;

(c) The requirements imposed by s. C.02.023(1) of the *FDR* to record, investigate, and if applicable, take corrective action in respect of complaints regarding the quality, deficiencies, or hazards of a drug;

(d) The requirements imposed by s. 15 of the *NCR* to keep records of

i. the name and quantity of any narcotic received by the distributor, the name and address of the person who sold or provided it and the date it was received;

ii. the name, quantity and form of any narcotic sold or provided, the name and address of the person to whom it was sold or provided and the date on which it was sold or provided;

iii. the name and quantity of any narcotic in stock at the end of each month;

(e) The requirement imposed by s. 20 of the *NCR* to report any loss or theft of a narcotic within 10 days of discovery of such loss or theft;

(f) The procedural requirements imposed by s. 27 of the *NCR* with respect to the sale of narcotics.

v. Fraudulent Concealment

169. The Defendants intentionally and fraudulently concealed the existence of their unlawful conduct from the public, including the Plaintiff and the Class Members. The Defendants represented to the Plaintiff, the Class Members, and the general public that the Opioid Misrepresentations were true and accurate, thereby misleading the Plaintiff and the Class Members. The affirmative acts of the Defendants alleged herein were fraudulently concealed and carried out in a manner that precluded detection.

170. Because the Defendants' conduct was kept secret, the Plaintiff and the Class Members were unaware of the Defendants' unlawful conduct.

171. In furtherance of the common design whose purpose was to broaden the market for and increase the sale of Opioids, the Manufacturer Defendants engaged in the unlawful acts identified above. The plaintiff pleads and relies on the conduct described in paragraphs 63 to 139 as further particular of acts in furtherance of the common design.

172. In furtherance of the common design whose purpose was to broaden the market for and increase the sale of Opioids, the Distributor Defendants engaged in the unlawful acts identified above. The plaintiff pleads and relies on the conduct described in paragraphs 126 to 139 as further particulars of acts in furtherance of the common design.

173. In furtherance of the common design, the Manufacturer Defendants and Distributor Defendants shared market data, sales data, sales forecasts, marketing plans, and demand estimates.

J. RELIEF SOUGHT

i. Damages Suffered by Class Members

174. As a result of the Defendants' statutory breaches and common law tortious conduct, the Plaintiff and Class have suffered and will continue to suffer damages including, but not limited to, damages for personal injuries, mental anguish, pain and suffering, loss of employment income and benefits, loss of enjoyment of life, possible death, and special damages and expenses.

175. As a result of the Defendants' conduct described above, the Plaintiff and Class have suffered damages and losses, including but not limited to:

(a) personal injury, including addiction;

(b) severe emotional distress related to the pain and suffering associated with addiction;

(c) the risk of death or other serious injuries;

(d) out of pocket expenses incurred by the Class; and

(e) loss of income.

176. The Plaintiff and Class have suffered injuries which are permanent and lasting in nature, including diminished enjoyment of life, as well as the need for lifelong medical treatment.

177. As a result of the Defendants' conduct described above, the Family Law Class have suffered damages, including but not limited to:

(a) actual expenses reasonably incurred for the benefit of Class Members;

(b) travelling expenses incurred while visiting Class Members during treatment or recovery;

(c) loss of income or the value of services provided for Class Members where services, including nursing and housekeeping have been provided; and

(d) compensation for loss of support, guidance, care, and companionship that they might reasonably have expected to receive from Class Members.

ii. Punitive Damages

178. The Plaintiff claims punitive damages in the sum of $100,000,000.00 as a result of the egregious, outrageous and unlawful conduct of the Defendants, and in particular, their callous disregard for the health and lives of vulnerable patients in Canada.

179. In particular, the Defendants' conduct in research, development, manufacture, testing, regulatory licensing, distribution, sale and marketing of Opioids after obtaining knowledge that Opioids were addictive which showed complete indifference to or a conscious disregard for the safety of others justifying an award of additional damages in a sum which will serve to deter the Defendants from similar conduct in the future.

iii. Disgorgement

180. The plaintiff claims an accounting of all profits earned by the defendants during the class period from the sale of Opioids pursuant to the New Narrative and disgorgement thereof. Such a remedy is fair and just in the circumstances.

181. The damages suffered by class members, described above, arise as a result of the common design engaged in by the Manufacturer Defendants and the Distributor Defendants, and the acts conducted in furtherance of that common design. The Manufacturer Defendants and Distributor Defendants are jointly and severally liable for the damages suffered by the Class as a result of these acts.

K. REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

182. The Plaintiff pleads that this action has a real and substantial connection with Ontario because, among other things:

(a) the Defendants distribute and sell their products in Ontario and derive substantial revenue from such sales;

(b) the Defendants' head offices are located in Ontario;

(c) the Defendants' advertised their products, including Opioids, in Ontario;

(d) the torts were committed in Ontario;

(e) the Plaintiff and Class Members were administered Opioids in Ontario and sustained consequent damages in Ontario; and

(f) the Defendants are necessary and proper parties to the action.

L. STATUTES RELIED UPON

183. The Plaintiff relies upon the following statutes:

(a) *Class Proceedings Act*, 1992, SO 1992, c 6;

(b) *Family Law Act*, R.S.O. 1990, c. F.3;

(c) *Courts of Justice Act*, R.S.O. 1990, c. C.43;

(d) *Competition Act*, RSC 1985, c C-34;

(e) *Food and Drugs Act*, R.S.C. 1985, c. F-27;

(f) *Food and Drug Regulations*, C.R.C., c. 870.

(g) *Controlled Drugs and Substances Act*, SC 1996, c 19

(h) *Narcotic Control Regulations*, CRC, c 1041

184. The Plaintiff and Class request that this action be tried in Toronto, ON.

May 15, 2019

Amended: February 9, 2022

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ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto
Proceeding under the *Class Proceedings Act, 1992*

FRESH AS AMENDED STATEMENT OF CLAIM

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