

CANADA

(Class action division)
SUPERIOR COURT

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

NO: 500-06-001223-235

Margaret Sakhrani, residing and domiciled at [REDACTED]

[REDACTED], acting personally, as liquidator (executor) of the Estate of Maria Sakhrani and as proposed representative for the Family Class Members

Petitioner

-v.-

L'ORÉAL CANADA INC., a legal person duly constituted, having its head office at 1500, Robert-Bourassa Blvd., Suite 600, in the city of Montréal, Province of Québec, Canada, H3A 3S7

and

L'ORÉAL USA INC., a legal person duly constituted, having its head office at 10, Hudson Yards, in the city of New York, State of New York, United States of America, 10001

and

L'ORÉAL USA PRODUCTS INC., a legal person duly constituted, having its head office at 10, Hudson Yards, in the city of New York, State of New York, United States of America, 10001

and

STRENGTH OF NATURE LLC., a legal person duly constituted, having its head office at 64, Ross Road, in the city of

Savannah, State of Georgia, United States of America, 31405

and

GODREJ DISTRIBUTORS CANADA LTD., a legal person duly constituted, having its head office at 6979, Victoria Drive, in the city of Vancouver, Province of British Columbia, Canada, V5P 3Y7

and

SOFT SHEEN-CARSON LLC, a legal person duly constituted, having its head office at 80, State Street, in the city of Albany, State of New York, United States of America, 12207

and

NAMASTE LABORATORIES, L.L.C., a legal person duly constituted, having its head office at 310, S. Racine Ave, 8th Floor, in the city of Chicago, State of Illinois, United States of America, 60607

and

DABUR USA INC., a legal person duly constituted, having its head office at 5, Independence Way, Suite 300, in the city of Princeton, State of New Jersey, United States of America, 08540

and

DABUR INTERNATIONAL LTD., a legal person duly constituted, having its head office at 5, Independence Way, Suite 300, in the city of Princeton, State of New Jersey, United States of America, 08540

and

DABUR STYLE LTD., a legal person duly constituted, having its head office at 934, Creebridge Cres, in the city of Newmarket, Province of Ontario, Canada, L3X 1P1

Respondents

**MOTION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE
(Art. 574 CCP and following)**

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

I. INTRODUCTION

A) The Action

1. This class proceeding arises from the Respondents' failure to conduct reasonable research and testing into the harmful side effects of chemical hair straightening products designed, manufactured, marketed, promoted and sold by them in Canada. As a result of their misrepresentations and failure to warn of the risk of uterine, ovarian, and breast cancer as well as fibroids associated with the use of these products, the Petitioner and the class members have suffered serious physical, psychological, financial and moral injury.
2. As detailed further below, Maria Sakhrani ("**Maria**") used the Respondents' chemical hair straightening products for approximately 7 years, starting at or around the age of 8 until she was approximately 16 years old. Maria would use the products approximately every three months. On or about January 16, 2020, Maria was diagnosed with ovarian cancer. Maria underwent chemotherapy, radiation and surgery. Unfortunately, these treatments were unsuccessful, and Maria passed away from ovarian cancer in March 2022.
3. Margaret Sakhrani ("**Margaret**") is Maria's sister, and the liquidator (executor) of Maria's estate. Margaret was born on December 5, 1977. She currently resides in Montreal, Québec. Margaret too used the Respondents' Hair Straightening Products in or around the same time as Maria. Margaret brings this action personally, in her capacity as the representative of Maria's estate, as well as a proposed representative of the family class.

4. The Petitioner wishes to institute a class action on behalf of the following group, of which they are members, namely:

- All persons who reside or have resided in Canada, who used any of the chemical Hair Straightening Products, as defined in paras. 5 and 6 below, manufactured by the Respondents and where the person is deceased, their heirs and estates (the “**Users**”); and
- All persons who are the spouse, parent, child, sibling, dependent, or caregiver to a person in the preceding paragraph (the “**Family Members**”).

(collectively, the “**Class Members**”)

5. This motion for authorization relates to the pain and suffering and resulting damages suffered by the Petitioner and the Class Members as a result of the Respondents’ negligent research and development, design, testing, manufacturing, packaging, promotion, marketing, distribution, labeling, licensing, marketing, distribution and sale of chemical hair straightening products (together, the “**Hair Straightening Products**” or “**Products**”) in Canada.

6. The Hair Straightening Products include, but are not limited to:

Respondent	Product
L’Oréal Canada Inc., L’Oréal USA Inc., L’Oréal USA Products Inc, Soft Sheen-Carson LLC	Dark & Lovely, Dark & Lovely Beautiful Beginnings
Strength of Nature LLC, Godrej Distributors Canada Ltd.	Motions, Soft & Beautiful, Just for Me, TCB, TCB Naturals, African Pride, African Pride Dream Kids
Dabur International Ltd., Dabur Style Ltd., Namaste Laboratories L.L.C	Olive Oil Relaxer, Olive Oil Girls, Organic Root Stimulator, Original Roots Stimulator, Organic Root Stimulator Olive Oil Relaxer, ORS

7. The Respondents marketed and sold their Hair Straightening Products to consumers in Canada since the 1970s. These consumers included primarily black women and children, who relied on and used the Respondents’ Hair Straightening Products based on the Respondents’ representations that these

products were safe to use in humans and free of any defects or dangers to consumers' health and safety.

8. Some of the Respondents Hair Straightening Products are marketed specifically for children. For example, "Just for Me", "Olive Oil Girls", "Dark and Lovely Beautiful Beginnings" and "African Pride Dream Kids" are marketed as products to be used by and on children specifically. The packaging of these products is brightly coloured with easy-to-read text, and features images of smiling children with straightened hair. The product packaging of some of these brands displays the word "Children". Examples of the product packaging of some of the Respondents Hair Straightening Products marketed to children are attached as **Exhibit P-1, Exhibit P-2, Exhibit P-3 and Exhibit P-4.**
9. The Respondents understood and intended that their consumers included children and women who would use their products to permanently straighten their hair. They further understood and intended for their Products to be used regularly, at intervals of four to eight weeks.
10. The Petitioner submits that the Respondents' Hair Straightening Products are defective and inherently dangerous, in that they contain harmful chemicals, including hazardous endocrine disrupting chemicals ("**EDCs**") and/or formaldehyde, which can be absorbed into the bloodstream.
11. These harmful chemicals are not always listed separately as ingredients on the Products' labels, but instead, are often broadly lumped into "fragrance" or "perfume" categories. As further particularized below, the Respondents did not warn about the risks associated with these chemicals on the Products' labels.
12. The Hair Straightening Products are defective and inherently dangerous in that they cause, materially contribute to, and materially increase the risk of uterine cancer, ovarian cancer, breast cancer, and fibroids in individuals who use them.
13. The Respondents have known about these defects and the risk of significant harm associated with the use of the Products, but have failed to disclose these defects and the resulting risks to the health and life of the Petitioner, Class Members, their treating physicians and regulatory authorities in Quebec and Canada and have failed to recall the Hair Straightening Products.
14. The Respondents committed faults and were negligent in failing to conduct any, or any reasonable, pre- and post-marketing research and testing, failing to disclose the results or limitations of any research and studies conducted into the alleged dangers and risks, and failing to warn Class Members of the risks of the use of the Hair Straightening Products. In addition to these material omissions, the Respondents' representations as to the safety of the Hair Straightening Products constitute false and misleading representations

regarding the safety of these Products that deceive or tend to deceive consumers into believing that they are not at risk of developing uterine cancer, ovarian cancer, breast cancer and fibroids.

15. The Petitioner claims, from the Respondents, compensatory damages for physical, psychological, financial and moral injury, as well as punitive damages for their gross negligence and wanton disregard for her and the Users' health and safety, as protected by the *Charter of Human Rights and Freedoms*, R.S.Q. c. C-12 (the "**Quebec Charter**") in an amount to be determined at trial.
16. The Respondents' negligence has also caused harm to the Family Members, who have suffered pain, stress, and financial losses as a result of the serious health issues and other harmful side-effects caused by the use of the Hair Straightening Products.

B) The Respondents

17. At all times material to this action, the Respondents were active in the cosmetics industry and engaged in the business of researching, licensing, designing, formulating, compounding, testing, manufacturing, producing, processing, assembling, inspecting, distributing, marketing, labeling, promoting, packaging, advertising and/or selling the Hair Straightening Products to Canadian consumers.
18. The Respondent L'Oréal Canada Inc. is a corporation duly incorporated pursuant to *Canada Business Corporations Act*, R.S.C., 1985, c. C-44, with its principal place of business and headquarters located at 1500, boulevard Robert-Bourassa, Suite 600, in Montréal.
19. The Respondent L'Oréal USA Inc. is a corporation duly incorporated pursuant to the laws of Delaware, USA, with its principal place of business at 10, Hudson Yards, New York, NY, USA, 10001. Process may be served upon its registered agent, C/O Corporation Service Company, 80 State Street, Albany, NY, USA, 12207.
20. The Respondent L'Oréal USA Products Inc. is a corporation duly incorporated pursuant to the laws of Delaware, USA, with its principal place of business at 10, Hudson Yards, New York, NY, United States 10001. Process may be served upon its registered agent, C/O Corporation Service Company, 80 State Street, Albany, NY, USA, 12207.
21. The Respondent Strength of Nature LLC is a corporation duly incorporated pursuant to the laws of Georgia, USA, with its principal place of business at 64, Ross Road, Savannah, Georgia, USA, 31405.
22. The Respondent Godrej Distributors Canada Ltd. is a corporation duly incorporated pursuant to the laws of British Columbia, Canada, with its

principal place of business at 6979, Victoria Drive, Vancouver, BC, Canada, V5P 3Y7. It is a subsidiary of Strength of Nature LLC.

23. The Respondent Soft Sheen-Carson LLC is a corporation duly incorporated pursuant to the laws of New York, USA, with its head office at 80, State Street, Albany, New York. Process may be served upon its registered agent, C/O Corporation Service Company, 80 State Street, Albany, NY, United States, 12207.
24. The Respondent Namaste Laboratories L.L.C. is a corporation duly incorporated pursuant to the laws of Illinois, USA, with its principal place of business at 310 S. Racine Ave, 8th Floor, South, Chicago, Illinois, 60607.
25. The Respondent Dabur USA Inc. is a corporation duly incorporated pursuant to the laws of New Jersey, USA, with its principal place of business at 5, Independence Way, Suite 300, Princeton, NJ, 08540.
26. The Respondent Dabur International Ltd. is a corporation duly incorporated pursuant to the laws of New Jersey, USA, with its principal place of business at 5, Independence Way, Suite 300, Princeton, NJ, 08540.
27. The Respondent Dabur Style Ltd. Is a corporation duly incorporated pursuant to the laws of Ontario, Canada with its principal place of business at 934 Creebridge Cres, Newmarket, Ontario, Canada, L3X 1P1. Dabur Style Ltd. Is a subsidiary of Dabur International Ltd.
28. All Respondents have either directly or indirectly designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, imported, labelled and/or sold Hair Straightening Products to distributors and retailers for resale and to the general public throughout Canada, including within the Province of Quebec.
29. Unless the context indicates otherwise, all Respondents will be referred to as "the Respondents" for the purposes hereof.

II. PETITIONER'S CIRCUMSTANCES

30. Maria was born on December 20, 1976 and resided in Montreal, Québec. Maria attended Concordia University and majored in Economics. She also obtained a diploma in information technology from Herzing college in Montreal. As mentioned above, Maria used the Respondents' Hair Straightening Products as a child, for approximately 7 years.
31. As of January 2020, Maria worked as an IT Administrator in Montreal. Before her cancer diagnosis in January 2020, Maria was a healthy woman with no underlying health conditions.

32. Maria and Margaret are of Haitian and Indian descent. Maria started using the Respondents' Hair Straightening Products when she was around 8 years old, on or around 1985. Maria's mother usually purchased the Respondents' Hair Straightening Products in Montreal, Québec at local grocery stores and pharmacies. Maria's mother would use the Respondents' Products to straighten Maria and Margaret's thick, curly hair at home, approximately every 3 months.
33. The products Maria used include, but are not limited to: Dark & Lovely, Just for Me, Soft & Beautiful and Olive Oil Girls. These products were used interchangeably because they served the same purpose.
34. The Respondents' Hair Straightening Products would sometimes cause scalp lesions. To minimize any damage to her daughter's scalp, Maria's mother took care to follow the package directions and would rinse Maria's hair quickly after applying the product. In fact, Maria's mother would apply the Products (and rinse them off) in sections to minimize the amount of time the product was on Maria's scalp. Maria and her mother relied on the package directions to avoid injury while using the Products.
35. Maria, Margaret, and their mother were never warned of the risks associated with using the Respondents' Hair Straightening Products. Had they been warned that these products contained chemicals that could cause cancer or fibroids, they would never have used them.
36. By age 16, in the early 1990s, Maria stopped using the products.
37. On or about January 16, 2020, Maria was diagnosed with ovarian cancer. By the time she received a diagnosis, the cancer on Maria's ovaries was touching her bowels. Maria underwent chemotherapy, radiation, and surgery. Unfortunately, these treatments were unsuccessful. Maria passed away from ovarian cancer on March 25, 2022.
38. Margaret did not know about the risks associated with the Respondents' Hair Straightening Products and cancer until the link between hair relaxers and cancer was reported in the media on January 23, 2023.
39. Margaret and other members of Maria's family have suffered and will continue to suffer emotional anguish resulting from Maria's extreme pain and suffering, and ultimate death, from ovarian cancer.

III. RESPONDENTS' LIABILITY

A) Endocrine-Disrupting Chemicals (EDCs)

40. The endocrine system is a network of glands and organs that produce hormones and release them into the blood. Hormones are natural substances that act as chemical messengers between different parts of the body. They control functions including growth, reproduction, sexual function, sleep, hunger, mood, and metabolism. Endocrine Disrupting Chemicals (EDCs) are chemicals that interfere with the normal functioning of the body's endocrine system. The Canadian Cancer Society's webpage includes a brief overview of the endocrine system and its function, as well as information about hormones and how harmful chemicals may affect them. Copies of these webpages, captured on February 16, 2023 are attached as **Exhibit P-5**.
41. The Respondents' Hair Straightening Products contain harmful chemicals, including EDCs such as phthalates. Jessica Helm et al. published a study in 2018 which found that hair relaxers are a source of exposure to harmful chemicals, including EDCs. The study is published in the *Journal Environmental Research* and is attached as **Exhibit P-6**.
42. EDCs disrupt the endocrine system in various ways. Some EDCs can act as "hormone mimics" that act like certain naturally occurring hormones, such as estrogen. Other EDCs block the action of certain hormones, or alter the chemical messages sent by hormones. EDCs can also increase or decrease the levels of hormones in the body by affecting the production, degradation, and storage of hormones. The Endocrine Society has published a resource for patients to learn more about the association between EDCs and various negative health effects, including cancers. A copy of this web resource, captured on February 16, 2023, is attached as **Exhibit P-7**.
43. Phthalates are one type of EDC which can interfere with natural hormone production and degradation and have been known for decades to be harmful and detrimental to human health. Yufei Wang and Haifeng Qian recently summarized the past two decades of research into the negative health effects of phthalates generally. Their article is published in the *Journal Healthcare (Basel)* and is attached as **Exhibit P-8**.
44. EDCs can be absorbed into the body through the skin or via inhalation. The Respondents' Hair Straightening Products can also cause burns and lesions on the scalp of the user, which further facilitate the entry of EDCs into the body. The Respondents were aware that scalp burns and lesions were a possible side effect of the Hair Straightening Products. Lauren Wise et al. hypothesize that burns and lesions are one of several pathways for harmful chemicals in the products to enter the body. This study is published in the *American Journal of Epidemiology* and is attached as **Exhibit P-9**.

45. As supported by the studies exhibited below, synthetic estrogenic compounds, such as EDCs, have the ability to alter hormonal actions and can result in hormone-sensitive cancers including uterine cancer, breast cancer and ovarian cancer. EDCs or chemicals that interfere with hormone action also impact fibroid outcomes.

B) The Respondents' Hair Straightening Products

46. The Respondents' Hair Straightening Products fall into a category of products known as "relaxers". Hair relaxers are chemical products designed to permanently straighten coiled or very curly hair. These products can be applied at a professional salon or at home using hair relaxer kits which are sold throughout Canada in drug stores, grocery stores and beauty supply stores.
47. Hair is made up of keratin, which contains sulfides. When these sulfides pair together, a disulfide bond is created. The more disulfide bonds there are in a person's hair, the more it will coil. Hair relaxers work by breaking down the naturally occurring disulfide bonds in curly hair. To work, they must be applied to the base of the hair shaft and left in place for some time, during which the chemicals in the product break down the disulfide bonds in the hair.
48. The chemicals in Hair Straightening Products are the subject of international concern. For example, Safer Consumer Products, a program run under the California Environmental Protection Agency, published a background paper on May 24, 2021, outlining these concerns. This paper is attached as **Exhibit P-10**.
49. Hair relaxer treatments are permanent, but as new hair grows in after four to eight weeks, relaxer must be re-applied to smooth out the newly grown hair. To maintain a straightened hairstyle, users must repeat the relaxer treatment every four to eight weeks.
50. The Respondents have continually advertised and marketed the Products as safe for human use, even promoting them using words such as "soft", "organic", "preserves 5 signs of healthy hair", and "anti-breakage protection", all of which connote safe and natural ingredients as opposed to harsh and dangerous chemicals. The Respondents have also advertised and marketed the Products directly to children, describe their children's products as "soft and gentle", "worry-free", and "nourishing". Such representations are made on the Respondents' websites, packaging, and other marketing materials.
51. Consumers expect the Hair Straightening Products to be safe for use as described by the Respondents. They also expect the Respondents to conduct appropriate testing and research before placing these products into the stream of commerce in Canada. The Hair Straightening Products are not, and have

not been, safe for use as advertised and represented by the Respondents. The Respondents gave no warning about the risk of cancer or fibroids associated with the use of their products. In fact, the ingredient lists on the Product labels do not always list which chemicals, including EDCs, are in the product. Nor do any of the labels contain information about the concentration of any harmful chemicals within the product.

C) Scientific Evidence linking the Respondents' Products to Uterine Cancer, Breast Cancer, Ovarian Cancer, and Fibroids

52. A growing body of scientific literature, including peer reviewed publications, demonstrate a causal link between use of hair straightening products and breast, uterine, and ovarian cancers, as well as fibroids. The Respondents knew or ought to have known about the risks associated with including harmful chemicals in their product formulations, yet failed to properly test their products for safety, ensure that their products were appropriately labelled, or warn the public about the risks. As a result of their failure to conduct any, or any reasonable, pre- and post-marketing research and testing and their failure to disclose at all, or adequately, the risks associated with the use of the Products, the Petitioner and the Class Members suffered serious physical and psychological harm, including but not limited to cancers, fibroids, distress, depression, anxiety, and death.

i. Uterine Cancer

53. In 2022, a large cohort study by Che-Jung Chang et al. found that people who used any hair straightening products in the preceding 12 months were 80 percent more likely to develop uterine cancer than never-users. The association between hair straightener use and uterine cancer was even stronger in cases of frequent use, with use of more than 4 times per year more than doubling the risk of uterine cancer. The study is published in the *Journal of the National Cancer Institute* and is attached as **Exhibit P-11**.

ii. Ovarian Cancer

54. In 2021, Alexandra White et al. published a prospective cohort study which found that frequent use of hair straightening products in the past year was associated with an over 200 percent increase in the risk of ovarian cancer. The study is published in the journal *Carcinogenesis* and is attached as **Exhibit P-12**.

iii. Breast Cancer

55. In 2022, Rohan Rao et al. analyzed a case-control study and found that the use of Hair Straightening Products for more than 10 years, use before 12 years of age, and a history of having relaxers applied both in professional settings (salon application) and non-professional settings (at-home application) were

associated with an increased risk of higher-grade and larger sized breast tumors. This study is published in the *Environmental Research Journal* and is attached as **Exhibit P-13**.

56. In 2021, Patricia Coogan et al. published a nationwide prospective study which found that frequent and long-term use of lye-based Hair Straightening Products may increase the risk of breast cancer among black women, compared with moderate use. This study is published in the journal *Carcinogenesis* and is attached as **Exhibit P-14**.
57. In 2021, Alexandra White et al. published a large prospective cohort study of U.S. women, which found that frequent adolescent use of Hair Straightening Products was associated with a higher risk of premenopausal breast cancer. This study, which was published in the *International Journal of Cancer*, is attached as **Exhibit P-15**.
58. In 2019, Carolyn E. Eberle et al. published a national (United States) prospective cohort study of women aged 35-74, which found that straightener use in the 12 months before enrollment was associated with an 18 percent higher breast cancer risk. More frequent straightener use was associated with a higher risk, and women who used straighteners every 5-8 weeks had a 31 percent higher breast cancer risk. This study is published in the *International Journal of Cancer* and is attached as **Exhibit P-16**.
59. A case-control study by Adana A.M. Llanos et al., published in 2017, found an increased risk of ER+ breast cancer among white individuals with a history of relaxer use compared to non-users. It also found that white people reporting use of no-lye relaxers were at an increased risk of TN breast cancer compared to non-users. This study is published in the journal *Carcinogenesis* and is attached as **Exhibit P-17**.

iv. Fibroids

60. The association between endocrine-disrupting chemicals and leiomyomata (fibroids) has been studied for over a decade.
61. In the 2012 study attached above as Exhibit P-9, Lauren Wise et al. observed an association between fibroids and hair relaxer use. A 2019 study by Amir Zota et al. further supported the association, linking exposure to some EDCs to uterine volume and fibroid size (two measures of fibroid burden). The 2019 study is published in the journal *Fertility and Sterility* and is attached as **Exhibit P-18**.
62. Black women are much more likely to use Hair Straightening Products than white women, with the use of the Products starting at a young age, often in childhood.

63. The unequal burden of exposure across populations contributes to cancer inequities as the groups with the greatest exposure also experiencing poorer cancer outcomes. For example, black women and girls use more Hair Straightening Products as compared with other race and ethnicity groups, thereby increasing their exposure to the harmful chemicals in the Respondents' Products. Likewise, Black women are disproportionately diagnosed with aggressive breast tumours, aggressive ovarian tumours, and aggressive types of uterine cancer and have lower 5-year survival rates and higher mortality rates for these cancers compared to White women.
64. The growing body of scientific literature linking the Respondents' Hair Straightening Products to cancers and fibroids demonstrates that the Products are inherently dangerous and not fit for their intended use.
65. The Respondents deliberately designed the Hair Straightening Products to contain harmful chemicals including EDCs and were, or ought to have been, aware that the use of such products in cosmetic products that comes into contact with hair and scalp would likely be absorbed into the skin and bloodstream, or inhaled.
66. The Respondents are or should have been aware in the first stages of designing their Hair Straightening Products that their formulations included harmful ingredients which were known to be EDCs and/or carcinogens. This is even before the more recent studies linking their products to the injuries grounding this claim.
67. Despite this knowledge and the nature and gravity of risk associated with the use of their products, the Respondents formulated their Hair Straightening Products with harmful components and failed to rigorously test their products to ensure safety even as evidence emerged of the risk. The Respondents similarly failed to adequately, or at all, warn consumers of the risks or advise them of their failure to conduct adequate testing and research to ascertain the risk posed by the use of their chemicals to their health.
68. The Respondents' Hair Straightening Products are advertised as delivering similar or identical results, are similarly priced, and are intended to, and are used, interchangeably by consumers. Where a Class Member has used multiple of the Respondents' Hair Straightening Products, all the Respondents responsible for the design, manufacture, distribution, marketing, and sale of all the products used are solidarily liable.

D) Canada's Regulation of Cosmetics

69. Hair Straightening Products are "cosmetics" regulated under *Canada's Food and Drugs Act*, R.S.C. 1985, c F-27 (the "**CFDA**"). The CFDA includes provisions (The Cosmetic Regulations (C.R.C., c. 869) which govern the production and sale of cosmetic products. The *Cosmetics Regulations*, C.R.C.,

- c. 869 (“**Cosmetics Regulations**”) set out specific sales, labelling, evidence of safety, and Ministry notification requirements for cosmetics manufacturers.
70. Section 16 of the CFDA prohibits the sale of any cosmetic that contains any substance that may cause injury to the health of the user. This prohibition applies when the cosmetic is used according to package directions *or* when used for purposes that are usual and customary.
71. Companies seeking to sell cosmetics in Canada must ensure, amongst other things, that the product is safe for use and is stored under sanitary conditions, that Health Canada has been notified of the ingredients in the product, that the product is labelled according to the *Consumer Packaging and Labelling Act*, R.S.C. 1985, c. C-38 and its regulations, and that the product complies with any applicable restrictions or requirements under the *Canadian Environmental Protection Act*, S.C. 1999, c. 33 (“**CEPA**”) which apply to the ingredients in the cosmetics.
72. Section 5 of the *Cosmetics Regulations* provides that companies seeking to import cosmetic products into Canada must also meet the requirements under the CFDA.
73. While the legislation provides Health Canada with some inspection and oversight powers, there is no mandatory pre-market safety testing for cosmetics in Canada. Instead, companies seeking to sell cosmetic products in Canada must notify the Ministry of the products’ ingredients and concentrations. This regulatory framework does not relieve the Respondents of their duty to conduct reasonable and necessary pre- and post-marketing research and testing into the safety of their products and the ingredients contained in them, nor does it relieve them of their duty to warn consumers of the risks inherent in the use of their products.
74. Although there is some regulatory structure, Health Canada has been found unable to ensure the safety of cosmetic products across the Canadian market. In 2016, the Office of the Auditor General found numerous deficiencies in Health Canada’s post-market oversight of chemicals used in cosmetics and consumer products. Amongst other findings, the Auditor General concluded that “Health Canada did not ensure industry compliance with reporting requirements for health and safety incidents and cosmetic notifications.” The full report is available online at: https://www.oag-bvg.gc.ca/internet/English/parl_cesd_201605_03_e_41382.html and is attached as **Exhibit P-19**.
75. Whether or not harmful chemicals are appropriately disclosed to Health Canada, they are not always listed separately as ingredients on the labels of Hair Straightening Products. Some Products list all of their chemical ingredients, but others may hide them within the catch-all “parfum”. The

specific formulations for various Hair Straightening Products are often proprietary, and thus the precise concentrations of these products are not publicly available. As a result of this informational imbalance, the Petitioner and the Class Members were left in the dark and had no knowledge of the risks of serious harm, including cancer, associated with the use of the Respondents' Hair Straightening Products which, at all times, were marketed and described as being safe for use in children and adults.

IV. RIGHTS OF ACTION

A) Art. 1457, 1468 and 1469 of the *Civil Code of Québec* (“CCQ”)

76. On behalf of her sister's estate and all other Class Members, the Petitioner submits that the Respondents breached their duties to adequately warn the public about the risks of using their Hair Straightening Products.
77. The Respondents designed, developed, tested, manufactured, licensed, assembled, distributed, imported and/or exported, marketed, and/or sold Hair Straightening Products.
78. At all material times, the Respondents owed a duty of care to the Petitioner and to the Class Members to provide a safely manufactured product. The Respondents breached the standard of care expected in the circumstances.
79. The Respondents owed the Petitioner and the Class Members a duty to:
 - a) Conduct scientific studies to assess and confirm the safety of the chemicals contained in their Hair Straightening Products, particularly in the specific combinations and concentrations used in those Products;
 - b) Conduct scientific studies to assess the possible causal relationship between the use of their Hair Straightening Products and the development of uterine, ovarian, and breast cancers or fibroids;
 - c) Label their Products to warn of the risk of cancer and fibroids as soon as there was reasonable evidence of such a risk;
 - d) Label their products to notify the Class Members that they had not conducted any, or any adequate research and testing into the specific chemicals contained in their products;
 - e) Carefully monitor the safety and post-market performance of Hair Straightening Products;
 - f) Warn the Petitioner, Class Members and Canadian regulators of the dangerous defects in their Hair Straightening Products;

g) Warn the Petitioner, Class Members and Canadian regulators of the potential harms associated with the use of the Hair Straightening Products; and

h) Recall them from the Canadian market when it came to light that the products could not be safely used, thereby causing risk of or actual serious personal injury and/or death,

80. The Respondents designed and manufactured the Hair Straightening Products and placed them into the Canadian stream of commerce. Therefore, the Respondents were in a position of legal proximity to the Class Members and were obliged to be fully aware of their Products' safety when designing, manufacturing, assembling, and marketing the Products.

81. It was reasonably foreseeable that a failure by the Respondents to design and manufacture a reasonably safe product and monitor its performance following market introduction (and to take corrective measures when required) would cause, materially contribute to, or materially increase the risk of harm to the Petitioner and the other Class Members. The Class Members used Hair Straightening Products to straighten or relax their hair, which was their intended use.

82. The Respondents were negligent in the design, development, testing, manufacturing, licensing, assembly, distribution, importing and/or exporting, marketing, and sale of their Hair Straightening Products. This includes—but is not limited to—the following negligent acts and omissions:

a) they knew or should have known that the Hair Straightening Products were unreasonably and dangerously defective. Yet, they failed to warn the public and the regulatory authorities in a timely manner or at all;

b) they failed to adequately design and/or manufacture the Hair Straightening Products to ensure that they were safe and free from defects prior to sale or distribution;

c) they failed to test (or adequately test) the Hair Straightening Products for safety before marketing and distributing them;

d) they failed to conduct any or adequate follow-up studies on the efficacy and safety of the Hair Straightening Products;

e) they failed to manufacture Hair Straightening Products in such a manner that they would work safely and effectively without exposing the users to injury or loss;

- f) they knew or ought to have known that the Hair Straightening Products were defective and that Hair Straightening Products would not safely perform the functions or purposes for which they were intended;
- g) after receiving actual or constructive notice of the significant increased risk of developing uterine, ovarian, breast cancer and fibroids with use of the Hair Straightening Products, the Respondents failed to issue adequate (or any) warnings, withdraw or recall their Hair Straightening Products, publicize the risks or defect(s), and/or otherwise act properly and in a timely manner to alert the Petitioner, Class Members, the public, and regulators that the Hair Straightening Products were defective;
- h) the Respondents failed to provide clear instructions to consumers, including precautions to be taken so as to avoid injury or damages from the Hair Straightening Products to the extent that this could be done given the dangerously defective nature of the Products;
- i) they concealed the fact that Hair Straightening Products were defective from the public and regulatory authorities, including Health Canada;
- j) they concealed adverse information regarding the testing and safety of Hair Straightening Products from the public and the regulatory authorities, including Health Canada;
- k) they failed to monitor and follow up on reports of adverse reactions to Hair Straightening Products;
- l) they failed to issue a safety notice or to recall the Hair Straightening Products in a timely manner or at all; and
- m) such further and other particulars of negligence within the knowledge of the Respondents.

83. At all times relevant to this action, the Respondents knew or should have known that their Hair Straightening Products were not safe for their intended use, as they contained harmful chemicals which increase the risk of specific cancers and fibroids, including difficult to detect and treat ovarian, uterine, and breast cancers. Despite this knowledge, the Respondents failed to test their Products and ensure that they were safe for their intended uses.

84. The Respondents did not warn the Petitioner, other Class Members, or regulators of the risk, thereby preventing the Petitioner and the Class Members from making informed choices about the use of Hair Straightening Products. Had the Petitioner and Class Members been warned about the dangers of Hair Straightening Products use, they would not have used them.

85. The Respondents' conduct therefore consists of a wilful disregard of the Petitioner and other Class Members' rights protected under art. 1 of the Quebec Charter.

B) Common Law Negligence

86. The Respondents also owed common law duties to those Class Members who are not residents of Quebec. These include a duty of care to design, manufacture, and distribute products safe for their intended use, and to warn consumers about the risks associated with use.

87. As particularized above, at all material times, the Respondents failed to meet the standard of care because they designed, manufactured, sold, distributed, and marketed Hair Straightening Products which were not safe for their intended use, as they contained harmful chemicals which could and did foreseeably cause injury to the user, namely uterine, ovarian, and breast cancers, and fibroids. The Respondents formulated their Products with these harmful ingredients when they could have used a safer alternative design. These Products should not have been placed on the market using formulations containing these harmful chemicals when other, safer products are available.

88. As particularized above, the Respondents failed to test (adequately or at all) their products for safety before marketing and distributing them in Canada.

89. As particularized above, the Respondents knew or should have known that their Hair Straightening Products were not safe for their intended use, yet failed to appropriately label their products or warn Class Members, the public, or regulatory authorities of the risks of use.

90. The Respondents' negligence therefore consists of a wilful disregard of the Petitioner and other Class Members' rights protected under art. 1 of the Quebec Charter.

C) Art. 53, 219 and 228 of the *Consumer Protection Act*, CQLR, c. P-40.1 ("CPA")

91. The Respondents also made false and misleading representations to the Petitioner and the Class Members, contrary to art. 219 of the CPA, which had the effect to deceive them as to the safety risks related to the use of the Hair Straightening Products. As explained above, the Hair Straightening Products are not, and have not been, safe for use as advertised and represented by the Respondents.

92. Furthermore, by concealing the true composition of the Hair Straightening Products and the link between their use and the increased risk to develop breast, uterine, and ovarian cancers, as well as fibroids, the Respondents

failed at their duty to inform the Petitioner and the Class Members of important facts, in stark violation of art. 228 CPA.

93. The Respondents' illegal commercial practice, omissions, and false and misleading representations have disregarded, and continue to completely disregard the Petitioner and other Class Members' rights protected under art. 1 of the Quebec Charter and the CPA.

V. DAMAGES

94. The Respondents' negligence caused the Class Members' damages.
95. Because of the Respondents' negligence, the Petitioner and Class Members suffered and continue to suffer serious personal injuries, pecuniary and non-pecuniary losses, and pain and suffering.
96. The Petitioner also seeks punitive damages for the Respondent's egregious conduct and wanton disregard for her health and safety, as well as that of other Class Members, rights protected under art. 1 of the Quebec Charter. Punitive damages are sought under 272 CPA (and not only 1 and 49 of the Quebec Charter).
97. In particular, the Respondents exposed children, adolescents, and adults to chemicals that were harmful, and subordinated the health and safety of the consumers of their Products to other interests including increases profits and revenues associated with the sale and marketing of these dangerous products.
98. The Respondents' negligence has also caused harm to the Petitioner's Family Members, and to the Family Members of other Class Members, who have suffered pain, stress, anxiety, trauma, grief, and financial losses resulting from the Class Members' injuries.
99. Some of the expenses related to the medical treatment that the Class Members have undergone or will undergo, will have been borne by the *Régie de l'assurance maladie du Québec* and other provincial health insurers. As a result of the Respondents' conduct, the *Régie de l'assurance maladie du Québec* and other provincial health insurers across Canada have suffered and will continue to suffer damages for which they are entitled to be compensated by virtue of its right of subrogation in respect to all past and future insured services. These subrogated interests are asserted by the Petitioner and the Class Members.

VI. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE CLASS MEMBERS

A) The Composition of the Class makes the application of art. 59 and 67 of the *Code of Civil Procedure* (“CCP”) difficult or impractical

100. The facts giving rise to an individual action on behalf of each Class Member against the Respondents, other than the facts set out above with the necessary adaptations, are as follows.
101. Every Class Member has used, or is a spouse, parent, child, sibling, or caregiver to a person who has used, the Hair Straightening Products.
102. The Class Members have or will have suffered harm as a result of using the Respondents Hair Straightening Products, in particular, developing uterine cancer, ovarian cancer, breast cancer, and fibroids, pain and suffering, financial losses, out-of-pocket expenses incurred or to be incurred in connection with the diagnosis and treatment of uterine cancer, ovarian cancer, breast cancer and fibroids.
103. The Petitioner did not, and could not reasonably suspect that there was a causal link between the Respondents’ Hair Straightening Products and uterine cancer, ovarian cancer, breast cancer and fibroids until the release of media reports describing this link in or around January 2023.
104. None of the Class Members would have suffered their injuries but for the acts and omissions of the Respondents.
105. All Class Members are entitled to claim from the Respondents damages for personal injuries, pain, suffering, loss of companionship or consortium and financial losses.
106. In addition, all Class Members are entitled to claim from the Respondents moral and punitive damages in an amount to be determined by the Court for their gross negligence and complete disregard for the life, health, safety and bodily integrity of the Petitioner and other Class Members, rights protected under art. 1 of the Quebec Charter.
107. Every User of the Class used and/or purchased one or more of the Respondents’ Hair Straightening Products. None of them received adequate (or any) warning about the risk that using the Respondents’ products would increase their risk of developing uterine cancer, ovarian cancer, breast cancer, or fibroids.
108. All of these damages to the Class Members are a direct and proximate result of the use of Hair Straightening Products and Respondents’ conduct,

negligence, and reckless failure to adequately disclose necessary information and the risks associated with Hair Straightening Products.

109. The composition of the class renders the application of art. 59 or 67 CCP difficult or impractical.
110. The Petitioner is unaware of the specific number of persons who used and/or purchased Hair Straightening Products. However, it is safe to estimate that it is in the tens of thousands, if not hundreds of thousands.
111. Class Members are numerous and are scattered across the entire country.
112. In addition, given the costs and risks inherent in an action, many Class Members will hesitate to institute an individual action against the Respondents. Even if the Class Members themselves could afford such individual litigation, the court system could not as it would be overloaded. Further, 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.
113. A multitude of actions instituted in different judicial districts throughout Quebec risks the prospect of contradictory judgments on questions of fact and law that are similar or related to all Class Members.
114. 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 in one action.
115. The objectives of behaviours modification and access to justice are particularly served by a class action. Specifically, this claim arises from the conduct of large multinational corporations involved in the manufacture and sale of cosmetic products, which are aggressively advertised and promoted as being safe for use by children and adults.
116. In these circumstances, a class action is the only appropriate procedure for all the Class Members to effectively pursue their respective rights and have access to justice.

VII. IDENTICAL, SIMILAR OR RELATED QUESTIONS OF FACT AND LAW

117. The identical, similar, or related questions of fact and law between each Class Member and the Respondents which the Petitioner wishes to have decided by the class action are as follows:
 - a) Do the Hair Straightening Products cause, exacerbate or contribute to an increased risk of uterine cancer, ovarian cancer, breast cancer and/or fibroids?

- b) Were the Respondents negligent and/or did they fail in their duty of safety and/or duty to inform imposed upon them as designers, developers, manufacturers, testers, packagers, promoters, marketers, distributors, labellers and/or sellers of the Hair Straightening Products?
- c) Were the Hair Straightening Products designed, developed, manufactured, packaged and sold with defects that increase a woman's risk of uterine cancer, ovarian cancer, breast cancer and/or fibroids?
- d) Did the Respondents fail to adequately and properly test their Hair Straightening Products before and/or after placing them on the market?
- e) Did the Respondents know or should they have known about the risks associated with the use of the Hair Straightening Products? If so, when?
- f) Did the Respondents knowingly, recklessly, or negligently breach a duty to warn Class Members of the risks of harm from the use of the Hair Straightening Products?
- g) Did the Respondents knowingly, recklessly, or negligently misrepresent to Class Members the risks of harm from the use of Hair Straightening Products?
- h) Did the Respondents knowingly fail or fail to adequately disclose and warn about the Hair Straightening Product's defects?
- i) Did the Respondents adequately and sufficiently warn Class Members about the risks associated with the use of Hair Straightening Products?
- j) Did the Respondents engage in false advertising when they represented, through advertisements, promotions and other representations, that the Hair Straightening Products were safe, or omitted to disclose material facts regarding the Hair Straightening Products' safety?
- k) In the affirmative to any of the above questions, are the Respondents liable to the Class Members?

- l) If the responsibility of the Respondents is established, what is the nature and the extent of damages and other remedies which the Class Members can claim from the Respondents?
- m) Are Class Members entitled to bodily, moral, and material damages?
- n) Are Class Members entitled to recover the medical costs incurred in the screening, diagnosis and treatment of medical conditions caused by using Hair Straightening Products?
- o) Are the Class Members entitled to recover as damages an amount equal to the purchase price of Hair Straightening Products or any part of the purchase price?
- p) Should Respondents be ordered to disgorge all or part of their profits received from sales of the Hair Straightening Products?
- q) Does the impugned conduct of the Respondents warrant an award of aggravated or punitive damages?

118. The interests of justice favour that this motion be granted in accordance with its conclusions.

VIII. THE NATURE OF THE RECOURSE

119. The nature of the recourse which the Petitioner wishes to advance on behalf of the Class Members is an action in damages for the product liability of the Respondents, and a civil liability damages action.

IX. THE CONCLUSIONS

120. The conclusions sought by the Petitioner are:

GRANT the class action of the Petitioner and the Class Members against the Respondents;

DECLARE that the Respondents failed to warn the Petitioner and the Class Members about the Hair Straightening Products' propensity to cause, materially contribute to, or exacerbate uterine cancer, ovarian cancer, breast cancer and fibroids.

DECLARE the Respondents liable for the damages suffered by the Petitioner and each of the Class Members;

CONDEMN the Respondents to pay to the Petitioner and the Class Members the total damages awarded by the court for their physical, psychological and moral damages incurred, as well as financial damages, including for loss of

income and past and future care costs, with interest at the legal rate and additional indemnity pursuant to Article 1619 of the *Civil Code of Québec*, as of and from the date of service;

CONDEMN the Respondents solidarily to pay to the Petitioner and the Class Members punitive damages in an amount determined by the Court, with interest and additional indemnity pursuant to Article 1619 of the *Civil Code of Québec*, as of and from the date of service;

ORDER the collective recovery of damages of the Class Members;

CONDEMN the Respondents to an amount sufficient to compensate *the Régie de l'assurance maladie du Québec* and other provincial health insurers for the medical treatments and expenses that the Class Members have undergone and will continue to undergo in the future, and **ORDER** the Respondents to deposit in the office of this court these sums so as to establish a fund to be administered as this Honourable Court deems fit;

CONDEMN the Respondents to pay such other amounts and grant the Class Members such further relief as this Honourable Court may determine as being just and proper; and

THE WHOLE with costs, including the costs of all exhibits, experts and publication notices.

X. REPRESENTATIVE STATUS

121. The Petitioner requests that she be ascribed the status of representative of the Class for the following reasons:

- a) Maria's estate is a Class Member.
- b) Margaret is the representative of Maria's estate, and well as a member of the Family Class.
- c) Margaret is well informed of the facts alleged in this motion.
- d) Margaret has all the required time, determination and energy to bring this matter to a conclusion and adequately represent the Class Members;
- e) Margaret cooperates with her attorneys and responds diligently and articulately to requests they make and she fully comprehends the nature of the class proceedings; and
- f) She is not aware of any conflict of interests with other Class

Members.

122. The Petitioner submits that this class action should be exercised before the Superior Court of Justice in the district of Montreal.

123. The Petitioner and the Respondent L'Oréal Canada Inc. is domiciled in the Judicial District of Montreal.

124. A great number of the Class Members reside in the judicial district of Montreal and in the appeal district of Montreal.

125. The Respondents' Hair Straightening Products were sold, without any or any adequate warnings, to Class Members in Montreal.

126. The present motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present motion;

AUTHORIZE the bringing of a class action in the form of a motion to institute proceedings in damages;

ASCRIBE the Petitioner the status of representative of the persons included in the class herein described as:

- All persons who reside or have resided in Canada who used any of the chemical Hair Straightening Products manufactured by the Respondents and, where the person is deceased, their heirs and estates; and
- All persons who are the spouse, parent, child, sibling, or caregiver to a person in the preceding paragraph.

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

- a) Do the Hair Straightening Products cause, exacerbate or contribute to an increased risk of uterine cancer, ovarian cancer, breast cancer and/or fibroids?
- b) Were the Respondents negligent and/or did they fail in their duty of safety and/or duty to inform imposed upon them as designers, developers, manufacturers, testers, packagers, promoters, marketers, distributors, labellers and/or sellers of the Hair Straightening Products?

- c) Were the Hair Straightening Products designed, developed, manufactured, packaged and sold with defects that increase a woman's risk of uterine cancer, ovarian cancer, breast cancer and/or fibroids?
- d) Did the Respondents fail to adequately and properly test their Hair Straightening Products before and/or after placing them on the market?
- e) Did the Respondents know or should they have known about the risks associated with the use of the Hair Straightening Products? If so, when?
- f) Did the Respondents knowingly, recklessly, or negligently breach a duty to warn Class Members of the risks of harm from the use of the Hair Straightening Products?
- g) Did the Respondents knowingly, recklessly, or negligently misrepresent to Class Members the risks of harm from the use of Hair Straightening Products?
- h) Did the Respondents knowingly fail or fail to adequately disclose and warn about the Hair Straightening Product's defects?
- i) Did the Respondents adequately and sufficiently warn Class Members about the risks associated with the use of Hair Straightening Products?
- j) Did the Respondents engage in false advertising when they represented, through advertisements, promotions and other representations, that the Hair Straightening Products were safe, or omitted to disclose material facts regarding the Hair Straightening Products' safety?
- k) In the affirmative to any of the above questions, are the Respondents liable to the Class Members?
- l) If the responsibility of the Respondents is established, what is the nature and the extent of damages and other remedies which the Class Members can claim from the Respondents?
- m) Are Class Members entitled to bodily, moral, and material damages?

- n) Are Class Members entitled to recover the medical costs incurred in the screening, diagnosis and treatment of medical conditions caused by using Hair Straightening Products?
- o) Are the Class Members entitled to recover as damages an amount equal to the purchase price of Hair Straightening Products or any part of the purchase price?
- p) Should Respondents be ordered to disgorge all or part of their profits received from sales of the Hair Straightening Products?
- q) Does the impugned conduct of the Respondents warrant an award of aggravated or punitive damages?

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 Class Members;

DECLARE that the Respondents failed to warn the Petitioner and the Class Members about the Hair Straightening Products' propensity to cause, materially contribute to, or exacerbate uterine cancer, ovarian cancer, breast cancer and fibroids.

DECLARE the Respondents solidarily liable for the damages suffered by the Petitioner and each of the Class Members;

CONDEMN the Respondents solidarily to pay to each member of the class a sum to be determined in compensation of the damages suffered, for their physical, psychological, financial and moral damages incurred as well as for loss of income and past and future care costs, with interest at the legal rate and additional indemnity pursuant to art. 1619 of the *Civil Code of Québec*, as of and from the date of service, and **ORDER** collective recovery of these sums;

CONDEMN the Respondents solidarily to pay to each of the Class Members, punitive damages with interest and additional indemnity pursuant to art. 1619 of the *Civil Code of Québec*, as of and from the date of service, and **ORDER** collective recovery of these sums;

RESERVE the right of each of the Class Members to claim future damages related to the use of Hair Straightening Products;

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

ORDER that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Respondents to an amount sufficient to compensate the *Régie de l'assurance maladie du Québec* and other provincial health insurers across Canada for the medical treatments and expenses that the Class Members have undergone and will continue to undergo in the future, and **ORDER** the Respondents to deposit in the office of this court these sums so as to establish a fund to be administered as this Honourable Court deems fit;

CONDEMN the Respondents to bear the costs of the present action, including the costs of all exhibits, expert fees and publication of notice fees;

DECLARE that all Class Members 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 members, date upon which the Class Members 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 Class Members in accordance with art. 576 CCP and to the terms to be determined by the Court within sixty (60) days from the judgment to be rendered herein in *La Presse* and *the Globe & Mail*, and any other newspaper as ordered by the Court;

ORDER that the Respondents and counsel for the Petitioner publish the notice to the Class Members, in French and in English, and that said notice be available on the Respondents' website with a link stating "Notice to Hair Straightening Products Users";

ORDER that the record be referred to the Chief Justice so that he may fix the district wherein the class action is to be brought and the judge before whom it will be heard;

ORDER that the clerk of this Court, upon receiving the decision of the Chief Justice, in the event that the class action be brought in another district, transmit the present record to the clerk of the designated district;

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

THE WHOLE with costs, including the cost of experts and all publication fees.

Montréal, February 16, 2023

Woods s.e.n.c.r.l./LLP

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Code BW 0208

Montreal, February 16, 2023

(S) Joel Rochon



ROCHON GENOVA LLP

Per: Mtre. Joel Rochon

Mtre. Golnaz Nayerahmadi

Mtre. Sarah Fiddes

Attorneys for the Petitioner

NOTICE OF PRESENTATION

To:

L'Oréal Canada Inc.

1500 boulevard Robert-Bourassa, Bureau 600
Montréal QC H3A 3S7

L'Oréal USA Inc.

10 Hudson Yards
New York, NY, United States 10001

L'Oréal USA Products Inc.

10 Hudson Yards
New York, NY, United States 10001

Strength of Nature LLC

64 Ross Road
Savannah, GA, 31405

Godrej Distributors Canada Ltd.

6979 Victoria Drive
Vancouver, BC, V5P 3Y7, Canada

Namaste Laboratories LLC

310 S. Racine, 8th Floor
South, Chicago, Illinois, 60607

Soft Sheen-Carson LLC

80 State Street
Albany, NY, United States, 12207.

Dabur USA Inc.

5 Independence Way Ste 300
Princeton, NJ, 08540

Dabur International Ltd.

5 Independence Way Ste 300
Princeton, NJ, 08540

Dabur Style Ltd.

934 Creebridge Cres
Newmarket, Ontario L3X 1P1, Canada

PLEASE BE ADVISED that the foregoing *Motion to institute a class action and to obtain the status of representative* will be presented on a date to be decided to a judge of the Superior Court of Quebec, Class Action Division, for the District of Montreal, at the Court House situated at 1, Notre-Dame Street East, Montreal, Quebec, H2Y 1B6, Canada.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, February 16, 2023

Woods s.e.n.c.r.l./LLP

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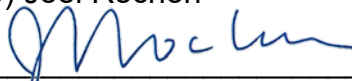
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Fax: 514-284-2046

Code BW 0208

Montreal, February 16, 2023

(S) Joel Rochon



ROCHON GENOVA LLP

Per: Mtre Joel Rochon

Mtre. Golnaz Nayerahmadi

Mtre. Sarah Fiddes

Attorneys for the Petitioner

Summons
(articles 145 and following CCP)

Take notice that the petitioner has filed this originating application in the office of the Superior Court in the judicial district of District of Montreal.

Exhibits supporting the application

In support of the motion for authorization to institute a class action and obtain the status of representative, the Petitioner discloses the following exhibits:

- Exhibit P-1 Example Images of Product Packaging of “Just for Me” Hair Straightening Product
- Exhibit P-2 Example Images of Product Packaging of “Olive Oil Girls” Hair Straightening Product
- Exhibit P-3 Example Images of Product Packaging of “Dark & Lovely Beautiful Beginnings” Product Packaging
- Exhibit P-4 Example Images of “African Pride Dream Kids” Product Packaging
- Exhibit P-5 Canadian Cancer Society Website: The Endocrine System and Hormones, available online at:
<https://cancer.ca/en/cancer-information/what-is-cancer/endocrine-system-and-hormones>;
<https://cancer.ca/en/cancer-information/reduce-your-risk/understand-hormones/all-about-hormones>
- Exhibit P-6 Helm, J. S., Nishioka, M., Brody, J. G., Rudel, R. A., & Dodson, R. E. (2018). Measurement of endocrine disrupting and asthma-associated chemicals in hair products used by Black women. *Environmental research*, 165, 448–458.
<https://doi.org/10.1016/j.envres.2018.03.030>
- Exhibit P-7 The Endocrine Society Website: Endocrine Disrupting Chemicals, dated January 24, 2022, available online at:
<https://www.endocrine.org/patient-engagement/endocrinelibrary/edcs#:~:text=EDCs%20can>

[%20disrupt%20many%20different,%2C%20certain%20cancers%2C%20respiratory%20problems%2C](#)

- Exhibit P-8 Wang, Y., & Qian, H., (2021). Phthalates and Their Impacts on Human Health, *Healthcare (Basel, Switzerland)*, 9:5, 603.
<https://doi.org/10.3390/healthcare9050603>
- Exhibit P-9 Wise, L. A., Palmer, J. R., Reich, D., Cozier, Y. C., & Rosenberg, L. (2012). Hair relaxer use and risk of uterine leiomyomata in African-American women. *American journal of epidemiology*, 175(5), 432–440.
<https://doi.org/10.1093/aje/kwr351>
- Exhibit P-10 Chemicals in Hair Straightening Products Background Document, dated May 24, 2021, by the Department of Toxic Substances Control Safer Consumer Product Program, California Environmental Protection Agency, available online at: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2021/05/Chemicals-in-Hair-Straightening-Products-Background-Document.pdf?emrc=106e86>.
- Exhibit P-11 Chang, C.J., O'Brien, K.M., Keil, A., Gaston, S.A., Jackson, C.L., Sandler, D.P., White, A.J., (2022). Use of Straighteners and Other Hair Products and Incident Uterine Cancer, *JNCI: Journal of the National Cancer Institute*, 114:12, 1636–1645,
<https://doi.org/10.1093/jnci/djac165>.
- Exhibit P-12 White, A.J., Sandler D.P., Gaston S.A., Jackson C.L., O'Brien K.M., (2021). Use of hair products in relation to ovarian cancer risk. *Carcinogenesis*. 42:9, 1189-1195.
[10.1093/carcin/bgab056](https://doi.org/10.1093/carcin/bgab056).
- Exhibit P-13 Rao R., McDonald J.A., Barrett E.S., Greenberg P., Tete D.K., Montgomery S.B., Qin B., Lin Y., Hong C.C., Ambrosone C.B., Demissie K., Bandera E.V., Llanos A.A.M., (2022). Associations of hair dye and relaxer use with breast tumor clinicopathologic features: Findings from the Women's circle of Health Study. *Environ Res*. 203:111863.
<https://doi.org/10.1016/j.envres.2021.111863>.
- Exhibit P-14 Coogan P.F., Rosenberg L., Palmer J.R., Cozier Y.C., Lenzy Y.M., Bertrand K.A., (2021). Hair product use and breast cancer incidence in the Black Women's Health

- Study. *Carcinogenesis*. 42:7, 924-930. <https://doi.org/10.1093/carcin/bgab041>.
- Exhibit P-15 White A.J., Gregoire A.M., Taylor K.W., Eberle C., Gaston S., O'Brien K.M., Jackson C.L., Sandler D.P. (2021). Adolescent use of hair dyes, straighteners and perms in relation to breast cancer risk. *Int J Cancer*., 148:9, 2255-2263. <https://doi.org/10.1002/ijc.33413>.
- Exhibit P-16 Eberle, C.E., Sandler, D.P., Taylor, K.W. and White, A.J. (2019). Hair dye and chemical straightener use and breast cancer risk in a large US population of black and white women. *Int. J. Cancer*, 147: 383-391. <https://doi.org/10.1002/ijc.32738>.
- Exhibit P-17 Llanos A.A.M., Rabkin A., Bandera E.V., Zirpoli G., Gonzalez B.D., Xing C.Y., Qin B., Lin Y., Hong C.C., Demissie K., Ambrosone C.B. (2017). Hair product use and breast cancer risk among African American and White women. *Carcinogenesis*, 38:90, 883-892. <https://doi.org/10.1093/carcin/bgx060>.
- Exhibit P-18 Zota, A. R., Geller, R. J., Calafat, A. M., Marfori, C. Q., Baccarelli, A. A., & Moawad, G. N. (2019). Phthalates exposure and uterine fibroid burden among women undergoing surgical treatment for fibroids: a preliminary study. *Fertility and sterility*, 111:11, 112–121. <https://doi.org/10.1016/j.fertnstert.2018.09.009>.
- Exhibit P-19 2016 Spring Reports of the Commissioner of the Environment and Sustainable Development Report 3—Chemicals in Consumer Products, available online at: https://www.oag-bvg.gc.ca/internet/English/parl_cesd_201605_03_e_413_82.html.

The Exhibits P-1 to P-19 are available on request.

Defendants' answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1, rue Notre-Dame Est, Québec, H1Y 1B6, within 15 days of service of this application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons. However, in family matters or if you have no domicile, residence, or establishment in Québec, it must be filed within 3 months after service; or
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Where to file the judicial application

Unless otherwise provided, the judicial application is heard in the judicial district where your domicile is located, or failing that, where your residence or the domicile you elected or agreed to with plaintiff is located. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the court.

However, if the application pertains to an employment, consumer, or insurance contract or to the exercise of a hypothecary right on the immovable serving as your main residence, it is heard in the district where the employee's, consumer's or insured's domicile or residence is located, whether that person is the plaintiff or the defendant, in the district where the immovable is located or, in the case of property insurance, in the district where the loss occurred. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the special clerk of that district and no contrary agreement may be urged against you. You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

Transfer of application to the Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Convening a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Notice of presentation of an application

Applications filed in the course of a proceeding and applications under Book III or V of the Code – but excluding applications pertaining to family matters under article 409 and applications pertaining to securities under article 480—as well as certain applications under Book VI of the Code, including applications for judicial review, must be accompanied by a notice of presentation, not by a summons. In such circumstances, the establishment of a case protocol is not required.

Montreal, February 16, 2023

Woods s.e.n.c.r.l./LLP

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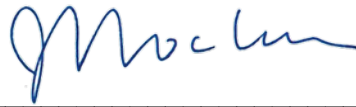
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Code BW 0208

Montreal, February 16, 2023

(S) Joel Rochon



ROCHON GENOVA LLP

Per: Mtre. Joel Rochon

Mtre. Golnaz Nayerahmadi

Mtre. Sarah Fiddes

Attorneys for the Petitioner

ATTESTATION

We undersigned, Woods LLP and Rochon Genova LLP, hereby attest that, to our best knowledge and belief, there are no other applications for authorization to bring a class action dealing in whole or in part with the same subject matter as the Petitioner Margaret Sakhrani's *Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative*. We further attest that a copy of the Petitioner Margaret Sakhrani's *Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative* will be entered in the national class action register.

Montréal, February 16, 2023



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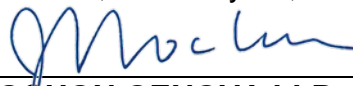
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Montréal, February 16, 2023



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No.: 500-06-001223-235

**Class Action
SUPERIOR COURT
DISTRICT OF MONTREAL
PROVINCE OF QUÉBEC**

MARGARET SAKHRANI

Petitioner

v.

L'ORÉAL CANADA INC. ET ALS

Respondents

**MOTION FOR AUTHORIZATION TO INSTITUTE
A CLASS ACTION AND TO OBTAIN THE
STATUS OF REPRESENTATIVE
(Articles 574 C.C.P. and following)**

Nature: Class Action
Amount: TBD

ORIGINAL

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