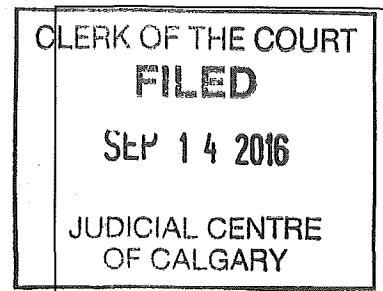


Clerk's stamp



FORM 10
[RULE 3.25]

COURT FILE NUMBER	1601- 12173
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	CALGARY
PLAINTIFF	DAVID HELM
DEFENDANT	LOYALTYONE, CO.
DOCUMENT	Brought under the <i>Class Proceedings Act</i> <u>STATEMENT OF CLAIM</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	JENSEN SHAWA SOLOMON DUGUID HAWKES LLP Barristers 800, 304 - 8 Avenue SW Calgary, Alberta T2P 1C2 Andrew Wilson Kajal Ervin Rachel Clarke Phone: 403 571 1520 Fax: 403 571 1528 File: 13679-001

NOTICE TO DEFENDANT

You are being sued. You are a defendant.
Go to the end of this document to see what you
can do and when you must do it.

Statement of facts relied on:

The Parties

1. The Plaintiff, David Helm, is an individual resident in the City of Red Deer, in the Province of Alberta.

2. The Defendant, LoyaltyOne, Co. ("**LoyaltyOne**"), is a Nova Scotia corporation, extra-provincially registered in Alberta. LoyaltyOne carries on business in Calgary, Alberta and throughout Canada.
3. LoyaltyOne designs and implements customer loyalty and reward programs. LoyaltyOne administers and provides the customer loyalty program known as The Air Miles Reward Program. Collectively, LoyaltyOne and The Air Miles Reward Program shall be referred to as "**Air Miles**".
4. Air Miles is a loyalty program through which its members earn Air Miles "reward miles" ("**Miles**") by shopping at participating companies across Canada. Generally, members purchase goods and services from participating retailers and receive a corresponding number of Miles depending on how much they spend. Generally speaking, the more you spend, the more Miles you receive. The program thus encourages members to spend more at participating retailers to earn more Miles.
5. According to Air Miles, earned Miles can be used to "reward yourself your way" by allowing Miles to be redeemed for instant "in-store or online" rewards, or to build up a Miles balance to be used towards "vacations, electronics and more, or a combination of both". Air Miles advertises that "[t]he choice is yours".
6. There are two categories of Miles that can be earned: Dream Reward Miles ("**Dream Rewards**") and Cash Reward Miles ("**Cash Rewards**"). Historically, Air Miles earners could only collect Dream Rewards; however, starting December 28, 2011, Air Miles introduced the Cash Rewards program.

Overview of Claim

7. This claim is to remedy the harm caused by the Air Miles program to its users. Air Miles users participated in the program in good faith, often shopping at specific retailers or buying specific products in order to earn Miles to use in the program, or increasing their purchases to earn a greater number of Miles. Air Miles enjoys a financial benefit from

its members participating in the Air Miles program, shopping at participating retailers and earning Miles. In doing so, program members reasonably expected to be treated fairly, honestly, and in good faith by Air Miles. They reasonably expected Air Miles to act reasonably, with all due care and attention required in the circumstances, and in accordance with all applicable laws.

8. Indeed, these reasonable expectations arise directly as a result of Air Miles' own promotional materials, designed to encourage people to join and use the Air Miles program. Air Miles holds itself out on its website (www.airmiles.ca) (the "**Website**") as "one of the best ways to get rewards in Canada" and "one of Canada's favourite rewards programs". Air Miles claims, among other things, that through the Air Miles program members can "use Miles to get everything from groceries to dream trips", and that members can each "reward yourself your way" and "Reward yourself the way you want." It also claims that "Unlike other frequent shopper programs, you can earn AIR MILES reward miles from all types of companies with thousands of locations across Canada." Finally, Air Miles claims it "promise[s] to bring you the best in service and security." Anyone in Alberta or elsewhere in Canada can access the Air Miles Website; the representations above are made to both members and potential members of the Air Miles program.
9. Despite the claims of the Air Miles program, the reality, especially recently, has been quite different. Contrary to their reasonable expectations, Air Miles program members will soon see their Miles expire, as a result of an unfair unilateral change by Air Miles in the program's terms and conditions. In addition, Air Miles has made it much more difficult for program members to redeem their earned Miles before they expire, and made it much more likely users' Miles will expire. The net result is that Air Miles' conduct will result in a large number of the Class Members' Miles expiring, resulting in a significant loss to the Class, and a corresponding large windfall for Air Miles.

10. This claim is therefore brought by the Plaintiff who seeks Court approval to prosecute the Action as a class action on behalf the proposed class members, as defined below (“**Class**” or “**Class Members**”).

The Class Members

11. The Plaintiff brings this Action on his own behalf and on behalf of the proposed Class Members, being all of the members of the Air Miles program resident anywhere in Canada with a positive Dream Rewards Miles balance at any time on or after December 28, 2011.
12. There are an estimated 10 million Canadian households that hold Air Miles memberships.
13. The Plaintiff, along with all of the Class Members, joined the Air Miles reward program for the express purpose of earning and then using Miles for rewards, including merchandise, gift cards, flights, vacation packages, and other rewards (“**Rewards**”). The Class Members further relied on the representations of Air Miles that members would be able to select available Rewards as and when the members see fit.
14. The Class Members fell victim to Air Miles, which, in clear breach of the Class Members’ reasonable expectations, has engaged in unfair practices, including but not limited to:
 - (a) implementing an expiry policy, when no expiry policy of the Miles had previously existed, without adequate notification to the Class Members and contrary to their reasonable expectations;
 - (b) date-stamping Miles, when no date-stamping of Miles had previously existed, resulting in an expiry of Miles, without adequate notification to the Class Members and contrary to their reasonable expectations;

- (c) causing unreasonable and unacceptable difficulty for Class Members to redeem their Miles through Air Miles' telephone system due to inadequate or improper management of the telephone system, resulting in unduly long wait times;
- (d) failing to make all high value Rewards available to members with high Miles balances when they attempted to redeem their Miles;
- (e) improperly reducing the types of Rewards available to members and improperly eliminating certain categories of Rewards altogether; and
- (f) introducing a new Cash Rewards program, and removing Rewards from the historic Dream Rewards program and placing them into the Cash Rewards program, without adequate notification to the Class Members, and without enabling Class Members to change their earned Dream Reward Miles to Cash Reward Miles, thereby stripping the Dream Rewards program of significant value.

The Proposed Representative Plaintiff's Circumstances

15. David Helm ("**Mr. Helm**") is the Plaintiff in this action, and the Proposed Representative Plaintiff for the Class Members as described above. Mr. Helm became an Air Miles member in or around 1990. Mr. Helm earned Miles by shopping at various retailers which offer Air Miles upon the purchase of certain items or when a certain amount of money has been spent.
16. When Mr. Helm first started earning Air Miles in or around 1990, his primary purpose was to earn and save enough Miles to redeem them for a dream trip to the South Pacific Islands, a trip that he would not otherwise be able to afford. Over the years, Mr. Helm has redeemed small amounts of Miles for various Rewards, including a camera, a telephone, a few flights and hotel stays; however, his primary purpose in earning Miles was for a vacation, including flights and lodging for his dream trip to the South Pacific Islands.

17. In or about 2014, Mr. Helm was informed by a neighbour that Air Miles had instituted a new policy whereby certain of his Miles would be expiring. Mr. Helm received no direct notice from Air Miles. As a result of the expiry of his Miles, Mr. Helm realized he would not be able to earn enough Miles in time for his dream vacation, despite the fact he had been earning them for many years.
18. In an effort to minimize the number of Miles lost due to expiry, Mr. Helm was forced to redeem certain of his Miles for Rewards for which he did not in fact want to use his Miles. Specifically, Mr. Helm redeemed certain Miles for car rentals and a flight to the Yukon Territories.
19. In a further effort to use some of the Miles that were subject to expiry, Mr. Helm attempted to redeem certain of his Miles for a flight for two to Corpus Christie, Texas. In August 2016, with 6469 Miles earned, Mr. Helm logged into his Air Miles account. The map provided by Air Miles stated that 2700 Miles were required to fly from Alberta to Corpus Christie, Texas. However, when Mr. Helm attempted to book two flights, the Air Miles system advised that no flights were available. Instead, flights were available at an increased rate of 3510 Miles per flight (approximately 600 more Miles than Mr. Helm had earned). In addition, despite being told that the flight was no longer available at the 2700 Miles per flight rate that Mr. Helm originally selected, the Air Miles website offered the same flight, but only if Mr. Helm chose to pay cash, instead of redeeming Miles. As a result, Mr. Helm was unable to redeem his Miles for a flight to Corpus Christie.
20. As it stands, Mr. Helm stands to lose approximately 5000 earned Miles as of January 1, 2017.

Expiry Program

21. On December 28, 2011 Air Miles issued a press release announcing the implementation of its new Cash Rewards program. The press release detailed at length the supposed advantages and the features of the Cash Rewards program. However, in order for a

member to earn Cash Rewards Miles, they are required to log into their account and manually select the collection of Cash Rewards Miles, as opposed to Dream Rewards Miles, which was historically the only type of Miles reward available. It is not possible for a member to transfer pre-existing Miles from the Dream Reward program to the Cash Reward program.

22. At the end of the press release announcing the new Cash Reward program, Air Miles included one paragraph detailing two fundamental changes to the Air Miles program.
23. The first change to the program concerned the expiry of Miles. Air Miles announced that any Miles earned prior to December 31, 2011 would have to be redeemed by December 31, 2016, failing which they would be expired and deleted from the members' account balance.
24. Prior to this announcement, there had been no expiry date on earned Miles.
25. The second change to the program was in respect to the date-stamping of Miles. Air Miles announced that effective December 31, 2011 all Miles would be marked with the date they were earned (all Miles earned prior to December 31, 2011 were date-stamped December 31, 2011). Once a Mile acquired a date-stamp it would expire within 5 years of being earned. If a Mile was not redeemed within that 5-year window, it would expire and would be deleted from a members' account balance.
26. Prior to this announcement, there had been no date-stamping of Miles.
27. The notice of expiry and date-stamping by Air Miles to its members was inadequate to properly notify the Class Members of the impending expiry of their Miles. The implementation of the new expiry and date-stamping rules was a fundamental change to the Air Miles program. The result of these new policies was a significant change to the existing terms (of which there had been no expiry or date-stamping) and with a major negative impact on the Class Members.

28. Moreover, not only was the content of the message not adequate and not proportionate to the impact it would have on Class Members accounts, the method of distribution was not satisfactory or reasonable in the circumstances.

LoyaltyOne / Air Miles' Wrongful Conduct

29. When Class Members signed up for the Air Miles program offered by LoyaltyOne they did so in good faith and in reliance of the representations made by LoyaltyOne. In accordance with their membership, the Class Members shopped at Air Miles affiliated retailers and purchased products and services in order to earn Miles. Class Members spent money at such retailers and on such products and services in part in order to be eligible to redeem the required Miles for flights and other Reward products.
30. In consideration for their membership with Air Miles and the purchases that Class Members made in an effort to earn Miles, the Class Members reasonably expected that in exchange Air Miles would operate its business and treat its members in a fair, honest and equitable manner. Specifically, the members reasonably expected that Air Miles would conduct its program in a way that members would be able to earn and redeem Miles in a fair and just manner, and would not be unjustly or improperly deprived of Miles earned retroactively. This expectation was entirely consistent with Air Miles' own promotional materials.
31. Class Members reasonably expected to have access to all Rewards available in the Air Miles program for the purposes of choosing the Reward for which they would redeem their Miles. However, contrary to the representations made by Air Miles and the Class Members' reasonable expectations, Air Miles engaged in conduct that resulted in the hiding of certain available Rewards from the Class Members on the Air Miles Website when they attempted to redeem their Miles. Moreover, Air Miles engaged in conduct whereby Rewards that would otherwise be available to Class Members (sufficient Miles had been earned) were not available for redemption.

32. In addition, in the case of Class Members with a large number of earned Miles, the Rewards presented by Air Miles as available for redemption were relatively small, low value, less desirable Rewards. Conversely, Class Members with a low number of earned Miles were presented high value, desirable Rewards, with a high Miles value attached to them, which was higher than their Miles balance. The effect being that Class Members with a large number of earned Miles could not use their Miles to redeem the valuable Rewards, as those rewards were not available to them for redemption. Those Class Members with a low amount of earned Miles were shown high value, desirable items, which they could not redeem as they did not have sufficient Miles, thereby providing an incentive for those Class Members to spend more money to earn more Miles. However, when the high Miles status was achieved, those desirable Rewards were no longer available to them.
33. In acting in this manner, Air Miles improperly limited the Reward choices of the Class Members and increased the chances that earned Miles would expire, unused. Air Miles benefits from this breach and unfair practice. By effectively engaging in a “bait-and-switch”, they provided a perceived incentive for Class Members to accrue additional Miles, but when the necessary number of Miles was achieved, Air Miles’ conduct resulted in the improper withholding of the Reward opportunity.
34. Prior to the introduction of the Cash Rewards program, Air Miles offered a number of different Reward types, including gift cards, magazine subscriptions and other Reward items which were highly desirable and were available to all Class Members. However, since the introduction of the Cash Rewards, those Rewards have been removed from the Dream Rewards program (the “default” program for Members) and are only available in the Cash Rewards program. Air Miles failed, neglected or refused to provide any or proper notice to the Class Members that Reward selections, such as gift cards, magazine subscriptions and other Rewards were no longer available to holders of Dream Rewards Miles.

35. Air Miles began stripping the Dream Rewards program of Reward options, which is where most members held their Miles, and either put those Rewards into the Cash Rewards program, or simply eliminated them all together. Since Miles in the Dream Rewards program cannot be transferred to the Cash Rewards program, the result is that Air Miles improperly limited the Rewards available to the Class Members. Air Miles stands to gain from its conduct in this manner, because, if members cannot redeem their Miles before expiry, or will not redeem them because the limited selection and poor Rewards offered, they will lose the value of their Miles permanently.

36. One of the options previously available to Class Members who held Dream Rewards was to gift their Miles to charity. This option is of significant value to those Class Members who are unable to redeem their Miles prior to their expiry either due to lack of suitable Reward options, or because of an inability to redeem their Miles due to the inaccessibility of the Air Miles redemption centre. However, Air Miles has removed the ability for Class Members to donate their Miles, held in the Dream Rewards, to charity. Only those Miles held in the recently implemented Cash Rewards program are eligible for charitable donation. Air Miles failed, neglected or refused to provide any notice to the Class Members that the charitable donation option was being removed from the holders of Dream Rewards Miles. Since Miles in the Dream Rewards program cannot be transferred to the Cash Rewards program, Air Miles stands to gain from its wrongful conduct by further limiting or eliminating the choices available to Class Members, resulting in a failure of redemption by Class Members and a corresponding benefit to Air Miles.

37. Air Miles has also made it increasingly difficult for Class Members to redeem their Miles for Rewards. One of the two options for Class Members to redeem Rewards is to call the Air Miles Customer Care Centre. However, when Class Members attempted to contact the Customer Care Centre, they were faced with significant wait times, in many instances upwards of 2 to 3 hours. The result was that Air Miles made it significantly more difficult for Class Members to redeem Miles. With the impending expiry of Miles,

and Class Members' inability to redeem Miles, Air Miles stands to gain from their conduct by making it increasingly more difficult for Class Members to redeem Miles resulting in further Miles being eliminated due to expiry.

38. The Defendant's conduct detailed at paragraphs 14 and 31 to 37 shall be referred to as the "**Wrongful Conduct**". Given the Wrongful Conduct, because members either could not redeem their Miles before they will expire, or would not redeem them because of the poor Rewards offered, the value of those Miles will be lost forever. Such Wrongful Conduct allows Air Miles to keep the benefits of the Class Members earning those Miles, while bearing none of the burdens.

Air Miles' Negligence

39. Air Miles owed a duty of care to the Plaintiff and the Class Members to conduct itself and its business in an honest, fair and proper manner, exercising all reasonable due care and attention required in the circumstances. Air Miles owed the Class Members a duty to operate its program in a manner in which members, who spent money earning Miles, would be able to redeem them in a proper, fair and just manner, and would not be improperly deprived of the Miles earned or the Rewards affiliated with the Air Miles program.
40. It was reasonably foreseeable that the Class Members would trust and rely on Air Miles and the integrity and proper operation of the Air Miles program when spending their money to earn Miles. The Defendant also knew, and it was reasonably foreseeable that if Class Members could not redeem Miles, or if the Rewards available were reduced or eliminated, the value of the Miles would diminish or disappear altogether, both of which would cause damage to the Class Members, and a corresponding gain to Air Miles.
41. The reasonable standard of care in the circumstances required Air Miles to act fairly, reasonably, honestly, candidly and with due care and attention in the course of operating its program. As a result of the Wrongful Conduct, Air Miles failed to meet the reasonable standard of care.

42. The negligence and Wrongful Conduct of Air Miles resulted in damage to the Plaintiff and other Class Members. Had Air Miles acted with the required standard of care, the pre-December 28, 2011 Miles would not have been date stamped, would not be subject to expiry, and the Rewards offered would have remained consistent, available and as represented.

Air Miles' Unjust Enrichment

43. Where a member's Miles expire, because they were unable or unwilling to redeem the Miles due to the Wrongful Conduct, Air Miles is unjustly enriched by the value of the lost Miles, and the Class Member suffers a corresponding deprivation.
44. There is no juristic reason justifying Air Miles retaining the value of the lost Miles in question. It would be unjust and inequitable in all the circumstances to allow Air Miles to retain the benefit of the lost Miles, to the detriment of the Plaintiff and Class Members.

Air Miles' Negligent Misrepresentation

45. Air Miles made representations concerning the operation of the Air Miles program, and the earning and redemption of Miles, through the Air Miles Website, email announcements, advertisements and the Air Miles Terms and Conditions and other representations (the "**Representations**"). This included Air Miles' advertising the purported broad selection of the Rewards available to Class Members and the claims on the Website as set out above.
46. Air Miles owed a duty of care to the Plaintiff and Class Members. It knew or reasonably ought to have known that Class Members would rely on its Representations concerning the Air Miles program and the earning and redemption of Miles. In fact, it counted on it to attract and retain members.
47. Given the Wrongful Conduct, the Air Miles Representations were inaccurate or misleading, and were made negligently. Class Members reasonably relied on Air Miles'

Representations to their detriment. Such reliance included Class Members joining the Air Miles program, and Class Members shopping at Air Miles' partner retailers, often paying a premium on goods and services, in an effort to earn Miles. In addition, Class Members earned and stockpiled Miles in an effort to access high value Rewards based on Air Miles' Representations that such Rewards would be available when a certain number of Miles had been earned.

Fair Trading Act

48. Mr. Helm and the Defendant are located in Alberta for the purposes of the *Fair Trading Act*, RSA 2000, c F-2.
49. Mr. Helm is a consumer for the purposes of the *Fair Trading Act*, because he:
 - (a) received and has the right to receive Miles through the operation of the Air Miles program;
 - (b) received and has the right to receive Rewards from Air Miles through the operation of the Air Miles program; and
 - (c) has received a membership with Air Mileseach as a result of an arrangement with Air Miles.
50. Air Miles, which provided Mr. Helm and the Class Members with a membership with the Air Miles program ("**Membership**") and which provided Miles and Rewards to Mr. Helm and the Class Members, is a supplier for the purposes of the *Fair Trading Act*.
51. The supply of the Membership, Miles and Rewards to Mr. Helm and the Class Members, as well as Air Miles' agreement to provide Miles and Rewards to Mr. Helm and the Class Members, each as a result of an arrangement between the Class Members, including Mr. Helm, and Air Miles (the "**Transaction**"), are consumer transactions for the purposes of the *Fair Trading Act*.

52. Class Members in Alberta who:

- (a) received and have the right to receive Miles through the operation of the Air Miles program;
- (b) received and have the right to receive Rewards from Air Miles through the operation of the Air Miles program; and
- (c) have received a Membership,

also entered into consumer transactions for the purpose of the *Fair Trading Act*.

53. Class Members resident in British Columbia, Saskatchewan, Manitoba, Ontario, Prince Edward Island, Newfoundland and Labrador, Quebec and Nova Scotia, who:

- (a) received and have the right to receive Miles through the operation of the Air Miles program;
- (b) received and have the right to receive Rewards from Air Miles through the operation of the Air Miles program; and
- (c) have received a Membership,

are consumers located in those provinces for the purposes of the *Business Practices and Consumer Protection Act*, SBC 2004, c 2, the *Consumer Protection and Business Practices Act*, SS 2014, c C-30.2, the *Business Practices Act*, CCSM, c B120, the *Consumer Protection Act*, 2002, SO 2002, c 30, Sched. A, the *Consumer Protection Act*, CQLR, c P-40.1, the *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1, the *Consumer Protection Act*, RSNS 1989, C 92, and the *Business Practices Act*, RSPEI 1988, c B-7 (the “**Equivalent Consumer Protection Statutes**”). The Defendant carried on business in those Provinces and was, among other things, a supplier for the purposes of the Equivalent Consumer Protection Statutes.

54. The Representations, as detailed above, were made and received by the Plaintiff and the Class Members in Alberta for the purposes of the *Fair Trading Act*.
55. The Representations concerned facts that would reasonably be expected to affect the decision of the Class Members to enter into the Transactions.
56. The Representations constitute unfair, unconscionable or otherwise prohibited practices under the *Fair Trading Act* and Equivalent Consumer Protection Statutes, given that, among other things:
- (a) the Representations used exaggeration, innuendo or ambiguity as to material facts with respect to the Transactions;
 - (b) the Defendant represented that the Transactions involved rights or obligations different from the fact;
 - (c) the Representations were false, misleading and deceptive;
 - (d) the Defendant represented that it could supply certain Rewards when it would or could not;
 - (e) the Defendant represented that the Membership, the Miles and / or the Rewards have performance, characteristics, uses benefits or other attributes that they do not have; and / or
 - (f) the Transactions were excessively one-sided in favour of the Defendant.

All of which as particularized by the Representations and Wrongful Conduct discussed above.

57. The Plaintiff and Class Members are entitled to damages pursuant to section 13 of the *Fair Trading Act* and equivalent provisions of the Equivalent Consumer Protection Statutes.

Air Miles' Breach of Contract

58. When a member signs up for an Air Miles card, there is a contract between Air Miles and the member, the purported terms of which are set out in the Terms and Conditions ("**Contract**").
59. The terms of the contract between Air Miles and the Class Members were drafted entirely by Air Miles. The Class Members did not have the ability or opportunity to negotiate the terms of the contract or to make any changes to the Contract.
60. It was an express, or alternatively implied term of the Contract that Air Miles would operate the Air Miles program and treat the members in a fair, honest and equitable manner, in compliance with all applicable laws. Air Miles' Wrongful Conduct as detailed above constitutes a breach of the Contract.

Air Miles' Lack of Good Faith

61. Air Miles has a common law duty to deal with the Plaintiff and the class Members honestly and in good faith in the operation of the Air Miles program.
62. Air Miles misled the Plaintiff and the Class Members about matters which were directly linked to the performance and execution of the Contract.
63. As a result of Air Miles' Wrongful Conduct, Air Miles breached their common law obligations and duties of good faith and honesty in the contractual performance of the Air Miles program. The Plaintiff and the Class Members have suffered harm as a result.

Effects of the Defendant's Actions

64. As a result of Air Miles' negligent, tortious, unlawful Wrongful Conduct and breaches of contract, as set out above, the Class Members have suffered and will continue to suffer loss and damages.

A Class Proceeding is Appropriate

65. The Class Members as individuals cannot match the resources of Air Miles. The individual claims of each class member would not be economical to pursue individually. The Class Members would be denied access to justice in the absence of a class proceeding.
66. It is unlikely that an individual could or would seek prospective relief to deter future misconduct by Air Miles. Air Miles is sufficiently large and well-resourced that an individual lawsuit would be unlikely to have any significant impact on its behaviour. This class proceeding will either produce a voluntary change in the behaviour of Air Miles or result in a court order which will compel a change in its behaviour.
67. The allegations regarding breaches of common law and statutory duties owed to the Class Members and breaches of contract are common to the claims of the proposed Class Members. Determination of the nature and extent of the duties owed and the terms of the alleged contract are common to the claims made.
68. The proposed Representative Plaintiff can fairly and adequately represent the interests of the Class Members.
69. The proposed Representative Plaintiff and Class Members propose that the Trial of the common issues take place at the Court House, in the City of Calgary, in the Province of Alberta.
70. The proposed Representative Plaintiff and Class Members plead and rely on the *Class Proceedings Act*, SA 2003, c C-16.5 and the *Alberta Rules of Court*, Alta Reg 124/2010.

Remedy sought:

71. The Representative Plaintiff and Class Members seek:

- (a) An order certifying this Action as a national class proceeding and appointing the Plaintiff as the representative of a class to be certified by the Court;
- (b) A declaration that the Defendant shall reinstate all Class Members' expired Miles;
- (c) In the alternative to the reinstatement of the Class Members' expired Miles, compensation for the value of the expired Miles, or alternatively a restitutionary award for the value of the Defendant's unjust enrichment;
- (d) A declaration that the Defendant engaged in unfair practices contrary to Part 2 of the *Fair Trading Act* and the equivalent provisions in the Equivalent Consumer Protection Statutes;
- (e) Statutory damages pursuant to the *Fair Trading Act* and the Equivalent Consumer Protection Statutes in an amount to be determined by this Honourable Court;
- (f) General damages for the inconvenience caused by conduct of the Defendant in an aggregate amount to be determined by this Honourable Court;
- (g) Punitive damages in an amount to be determined by this Honourable Court;
- (h) An order, pursuant to s. 30 of the *Class Proceedings Act*, R.S.A. 2003, c C-16.5 directing an aggregate monetary award;
- (i) An order, pursuant to s. 32 of the *Class Proceedings Act*, R.S.A. 2003, c C-16.5 allowing for the use of standard claim forms or other documentary evidence or such other procedure as warranted under the circumstances;

- (j) An order that the damages be paid by the Defendant into a common fund and distributed to the Class Members in an appropriate manner as directed by the Court;
- (k) Pre-judgment and post-judgment interest;
- (l) The costs of this Action on a substantial indemnity basis;
- (m) The costs of administering the plan of distribution of the recovery in this Action; and
- (n) Such further and other relief as may be required and as this Honourable Court deems to be just and appropriate having regard to the circumstances.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at CALGARY, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.