

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No.: 500-06-000820-163

SUPERIOR COURT

(Class Action)

GAÉTAN DELISLE, domiciled and residing at 1699, rue Principale, City of Saint-Blaise-sur-Richelieu, District of Iberville, Province of Quebec, H3Z 2T2

and

ASSOCIATION DES MEMBRES DE LA POLICE MONTÉE DU QUÉBEC INC., having its head office at 255, Saint-Laurent Street, City of Varennes, District of Richelieu, Province of Quebec, J3X 0A5

and

PAUL DUPUIS, domiciled and residing at 28 Rolland Street, City of Saint-Jean-sur-Richelieu, District of Saint-Jean, Province of Quebec, J2X 5S9

and

MARC LACHANCE, domiciled and residing at 257 de la Tramontane, City of Saint-Jean-sur-Richelieu, District of Saint-Jean, Province of Quebec, J2W 3C2

Applicants

v.

HER MAJESTY THE QUEEN, represented by the ATTORNEY GENERAL OF CANADA, having a place of business at Complex Guy-Favreau, Quebec Regional Office, Department of Justice, East Tower, 9th Floor, 200 Rene-Levesque Boulevard West, City of Montreal, District of Montreal, Province of Quebec, H2Z 1X4

Respondent

**AMENDED JUDICIAL APPLICATION TO AUTHORISE CLASS ACTION PROCEEDINGS
#4 (Articles 574 and following C.C.P.)**

THE APPLICANTS RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

[1] Applicants seek to be named representatives and to obtain this Honourable Court's authorization to proceed with a class action on behalf of the Class and Sub-classes of individuals as defined below:

In these proceedings:

1. **Members and Civilian Members** are as defined in the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10 (the “**RCMP Act**”) and the *Royal Canadian Mounted Police Regulations*, 2014, S.O.R./2014-281, (the “**RCMP Regulations**”);
2. **Charter Right** is defined as a right protected under the *Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c11.(the “**Charter**”), the *Quebec Charter of Human Rights and Freedoms*, CQLR c. C-12 (the “**Quebec Charter**”) and, as required, other equivalent provincial legislation;

The proposed **Class** and **Sub-classes** (the “**Class**”, each a “**Sub-class**” and collectively the “**Classes**”) are defined as follows:

3. **The Class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees, including in a manner infringing any of their Charter Rights.
 - (i) **Linguistic Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees on the basis of their francophone (or other) linguistic affiliation.
 - (ii) **Freedom of Association Sub-class:** All current and former Members and civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees because of their role in advocating for members' rights to freedom of association and right to form a union.
4. **The Secondary Class:** Every person who is not included in the Class, who is a family member of a person who is part of a Class and who suffered direct damages in connection with physical and psychological harassment, reprisals, discrimination and/or abusive exercise of power suffered by a member of one of the classes.

5. **Excluded Persons:** Persons excluded from all of the proposed Classes, are those who have been victims of physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power based on gender, sexual orientation or preferences who will be alternatively covered by the definition of the proposed class in the proceedings bearing the following court file numbers: T- 1685-16, CV-15-5247600CP, S-122255, CV- 16- 563275 and 5000-06-000819-165.

- [2] The members of the Classes have suffered from various prejudices that were serious and they are seeking all moral and pecuniary damages including all damages related to psychological trauma, mental illness, post traumatic stress disorder, out-of pocket expenses, loss of income, loss of opportunity for advancement, loss or reduction of pension benefits, moral damages, punitive damages and damages under section 24 of the Charter.

II. PARTIES

THE APPLICANTS

Mr. Gaétan Delisle

- [3] Mr. Gaétan Delisle is a retired staff sergeant of the RCMP and ex representative of the Staff Relations Representative Program (the « SRRP») who was elected by the members of Division « C » of the RCMP at each election held by the SRRP from 1977 until his retirement in 2010.
- [4] He joined the RCMP in 1969 and was one of the founding members as well as ex-president of the AMPMQ.
- [5] Mr. Delisle was the leader of the trade union movement of the RCMP and represented members of the RCMP for more than 35 years.
- [6] Throughout his career as a representative for the members, amongst others, he:
- a) Participated in the creation of associations for the members;
 - b) Filed a motion for accreditation;
 - c) Achieved recognition for the political rights of members;
 - d) Exposed the existence of linguistic discrimination against francophone members of the RCMP;
 - e) Exposed the existence of a culture of systemic harassment as well as discrimination against members who were in favor of unionizing;
 - f) Was instrumental in helping members of the RCMP obtain the right to unionize;
 - g) Fought for healthy and sound working conditions for all members.

- [7] Mr. Delisle was subjected to a campaign of systemic harassment, reprisals and discrimination for having exercised the right to associate and for union/associational activities within the RCMP, and for being a francophone member who was defending the linguistic rights as well as other fundamental rights of other francophone members.
- [8] The campaign of harassment, reprisals and discrimination against Mr. Delisle was expressed in various ways. For example, Mr. Delisle was:
- a) Expelled from meetings related to the SRRF program and the SRRF caucus;
 - b) Subjected to investigations for his union activities;
 - c) Banned from the Mounted Police Members Legal Fund;
 - d) Subjected to various disciplinary actions that were abusive, unfounded and that lasted many years because he exercised the right to associate and for union/associational activities within the RCMP, and for other reasons that were abusive and unfounded.
 - e) Watched and monitored by RCMP's management;
 - f) Forced to resign as president of the AMPMQ;
 - g) Suspended without pay for more than a year;
 - h) Subjected to dismissal procedures that were abusive and based on discrimination.
- [9] For example, in *Delisle c. Canada (1990) 39 F.T.R. 217*, Mr. Delisle was « expelled » from the caucus of representatives for RCMP members because of «inconduite et irresponsabilité » in a case where the Federal Court concluded that it seems to be clear that the motive of expelling Mr. Delisle was related to his efforts in forming a union for RCMP members, such as it appears in the decision hereby communicated as **Pièce R-18**.
- [10] In this decision, with regards to the linguistic discrimination and harassment that Mr. Delisle was subjected to at the RCMP, the Federal Court stated that: "That members of an organization as respected as the R.C.M.P. would produce such a product is indeed shocking." See *Delisle* at para. 10.
- [11] The object the Court was referring to was a shirt designed and worn by the Anglophone members of the RCMP during an official meeting (with the connivance of superiors), featuring a buffalo with the English acronym "RCMP" defecating on the French acronym "GRC" such as it appears in a copy of the shirt's design communicated as **Pièce R-19**.
- [12] In addition, when Mr. Delisle was suspended without pay, which was in and of itself unjustified and abusive, despite the fact that the RCMP knew that Mr. Delisle had a family with three young children, they contested his request for employment insurance benefit and therefore forced the Delisle family to live through a very difficult financial situation for more than a year.
- [13] After the suspension without pay of Mr. Delisle was overturned following a motion to stay disciplinary proceedings, the RCMP used his reintegration to harass and punish him again by "reintegrating" him as a helicopter pilot. Mr. Delisle has never been a pilot before. The

inescapable conclusion is that this disguised reintegration was a way to exclude Mr., Delisle and to forbid Mr. Delisle from exercising his role as elected representative of the Division.

[14] Notwithstanding the above, Mr. Delisle continued to represent the interests of the RCMP members for decades and to fight for the members' right to have a workplace that is healthy, free of harassment, discrimination, abuse of power and reprisals. During those years, Mr. Delisle was involved in, amongst many others, the following files:

- a) *Delisle c. Canada*, [1990] 39 F.T.R. 217;
- b) *Delisle c. Canada (Procureur général)*, [1993], 67 F.T.R. 213 (F.C. T.D.);
- c) *Delisle c. Officier compétente de la Gendarmerie royale du Canada*, (1995) 30 D. A. (2^e) 1;
- d) *Delisle c. Canada*, 1996 CanLII 3973 (C.F.);
- e) *Delisle c. Canada (Procureur général)*, [1998] R.J.Q. 2751 (C.S.);
- f) *Delisle c. Canada (Procureur général)*, [1999] 2 R.C.S. 989;
- g) *Delisle c. Canada*, 2002 CanLII 36833 (QCSC);
- h) *Association de la Police Montée de l'Ontario c. Canada*, [2015] 1 R.C.S. 3.

[15] After suffering through this long campaign of harassment, reprisals and discrimination from RCMP members, Mr. Delisle felt pressure to retire in 2010.

Mr. Paul Dupuis

[16] Mr. Paul Dupuis is a recent retired Staff Sergeant, and former Staff Relations Representative (hereinafter "SRR").

[17] He joined the RCMP in 1980, and was the former President of the AMPMQ.

[18] Mr. Dupuis was subject to a systemic campaign of harassment, reprisals and discrimination for having exercised the right to associate and for union/associational activities within the RCMP, and advocacy for Members' linguistic and other rights.

[19] For example, Mr. Dupuis' career plan was to become an officer. However because of his union/associational activities and advocacy, and the harassment, he was denied a promotion. He was even denied the right to be re-elected as a SRR in 2013 as a reprisal for said activities and advocacy.

[20] After a prolonged campaign of harassment, reprisals and discrimination by senior officers and RCMP management, Mr. Dupuis felt forced to retire in 2016. His predecessors, former AMPMQ President Gaetan Delisle and former AMPMQ Treasurer Andre Girard, were also subject to intense and lengthy harassment campaigns for their associational/union activities.

[21] This campaign of reprisals is partly documented in the decision of the RCMP *External Review Committee* dated September 8, 2016, in which the President of the Committee concludes that "*les faits liés aux événements de novembre 2005, tels qu'ils sont décrits dans le dossier, suffisent pour établir, selon la prépondérance des probabilités, que le répondant a pris des mesures contre [M. Dupuis] parce que celui-ci avait déposé le grief G-487, et j'estime que ces*

mesures constituent des mesures de représailles au sens [de la loi]” (at para. 71). A copy of said decision is communicated herewith as **Exhibit R-1**.

[22] As a direct result of this campaign of harassment, reprisals and discrimination, Mr. Dupuis has suffered serious prejudice and injuries including years of unwarranted stress, the loss of income and pension benefits due to retaliatory discipline, harassment and unjustified denials of promotion opportunities.

ASSOCIATION DES MEMBRES DE LA POLICE MONTÉE DU QUÉBEC INC.

[23] **Association des membres de la Police Montée du Québec** (the “AMPMQ”) is an association which defends the rights of RCMP members of Division C (Quebec) and those of francophone members across Canada.

[24] The AMPMQ represents the majority of RCMP members in Division C and francophone members across Canada (see the decision *MPAO* as Exhibit R-5 at para. 6 cited at para 49 below).

[25] For more than 40 years the AMPMQ and its predecessors have been advocating for the rights of the RCMP members of Division C and francophone members across Canada.

[26] The AMPMQ's efforts include a long standing track record of advocacy in support of all members' rights to freedom of association and unionization, the defence of linguistic rights, the support and defence of all RCMP members in general who are the victims of harassment, bullying, reprisals, abusive disciplinary proceedings and the abuse of power by superiors and management.

[27] The AMPMQ supported the *Delisle* case (*Delisle v. Canada (Attorney General)* [1999] 2 SCR 989) through its then President Gaétan Delisle, and acted as intervener in first instance through to the Supreme Court proceedings which culminated in the historic decision of *Mounted Police Association of Ontario v. Canada (Attorney General)*, [2015] 1 SCR 3. (MPAO)

[28] The decision in *Mounted Police Association of Ontario v. Canada (Attorney General)* recognizes RCMP Members' rights to freedom of association and access to collective bargaining. In its reasons, the Supreme Court also recognizes that the RCMP and its management has a longstanding history of systemic harassment practices and abuse of power, as a means to curtail or prevent the exercise of the right to associate and for union/associational activities within the RCMP.

[29] The AMPMQ has also been instrumental in the support or defence of members through other proceedings including:

- (a) *Saumier c. Gendarmerie royale du Canada*, (2009) CAF 51;
- (b) *Girardeau v. Canada (Procureur général)* [1997] 127 F.T.R. 20;
- (c) *Delisle c. Officier compétent de la Gendarmerie royale du Canada*, (1995) 30 D.A. (2^e) 1;
- (d) *Delisle c. Canada (Procureur général)* [1993], 67 F.T.R. 213 (F.C.T.D.);
- (e) *Delisle c. Canada* (1990) 29 F.T.R. (C.F.);

(f) *Gendarmerie royale du Canada c. L'Association des membres de la division "C"*, [1986] D.L.Q. 450 (1986) 14 C.L.R.B.R. (N.S.) 46;

Constable Marc Lachance

[30] Mr. Marc Lachance currently holds the rank of Constable.

[31] Mr. Lachance joined the RCMP in 2009. He suffers from depression and other ailments induced through severe mental anguish caused by harassment in the RCMP, and has been on long-term disability for years after having suffered a severe depression in 2012;

[32] His illness is a direct result of the harassment, reprisals and discrimination he suffered at the hands of senior officers and RCMP management which started shortly after he was employed and lasted over a period of several years.

[33] The RCMP steadfastly refused to remedy the situation, leading to a gradual deterioration in Mr. Lachance's mental well-being and his ability to perform his duties.

[34] The long and torturous history of Mr. Lachance's harassment, reprisals and discrimination by colleagues and abuse of power by superiors is documented and evidenced by three (3) decisions of Assistant Commissioner Francois Deschenes, dated October 19, 2016, copies of which are annexed hereto as exhibits **R-2**, **R-3** and **R-4**.

[35] These decisions (R-2, R-3 and R-4) also document the existence of a very disturbing reality within the RCMP Chicoutimi detachment. Assistant Commissioner Francois Deschenes concludes that this detachment was the locus of rampant harassment and abuse of several Members' which was tolerated for years.

[36] All of Mr. Lachance's attempts to exercise remedies within the RCMP have failed to compensate him for the harassment, reprisals and discrimination he has suffered.

[37] As a direct result of this harassment and discrimination, Mr. Lachance has suffered serious prejudice and injuries including unwarranted stress, depression, loss of enjoyment of his profession and the loss of potential future earnings and pension benefits due to the loss of advancement opportunities.

THE RESPONDENT

[38] Respondent, Her Majesty the Queen, represents the Crown and the RCMP in this proceeding pursuant to the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, s. 23 (the "*Crown Liability Act*").

[39] Members of the RCMP are employed by the defendant employer Her Majesty the Queen, as represented by the Treasury Board, the whole as more thoroughly explained by the Court in *Gingras v. Canada*, [1994] 2 FCR 734 (see Exhibit **R-6** as cited at para 41 below).

III. THE FACTS ALLEGED JUSTIFY THE CONCLUSIONS SOUGHT

[40] At all material times, the employer and the RCMP had a duty and obligation to respect the civil rights, including the contractual and Charter Rights, of the members of the Classes.

[41] The management and senior officers of the RCMP are also bound by section 37 of the *RCMP Act* which states that it is the responsibility of every member of the RCMP:

- (a) to respect the right of all persons;
- (b) to maintain the integrity of the law, law enforcement and the administration of justice;
- (c) to perform the member's duties promptly, impartially and diligently, in accordance with the law and without abusing the member's authority;
- (d) to avoid any actual, apparent or potential conflict of interests;
- (e) to ensure that any improper or unlawful conduct of any member is not concealed or permitted to continue;
- (f) to be incorruptible, never accepting or seeking special privilege in the performance of the member's duties or otherwise placing the member under any obligation that may prejudice the proper performance of the member's duties;
- (g) to act at all times in a courteous, respectful and honourable manner; and
- (h) to maintain the honour of the Force and its principles and purposes.

[42] In addition, the RCMP and its management owed a duty of care to Messrs. Delisle, Dupuis, Girard, Lachance and other members of the Classes to ensure their Charter Rights such that they could work in an environment free of harassment, reprisals, discrimination, bullying and abuse of authority due to their linguistic affiliation or advocacy for freedom of association and unionization.

[43] More specifically, the RCMP and its management's duties included, *inter alia*, duties to:

- (a) use reasonable care to ensure the well-being of its Members;
- (b) provide safe workplace environment free from harassment, reprisals discrimination and abuse of authority on any grounds but in particular or charter protect right such as linguistic affiliation and advocacy for freedom of association and unionization;
- (c) provide equal employment and advancement opportunities to its members, regardless of their linguistic origin and regardless of their advocacy regarding freedom of association and union related activities;
- (d) establish and enforce appropriate policies, codes, guidelines and procedures to ensure all of the above-mentioned obligations;

[44] However, the RCMP breached all the above-cited obligations; such breaches constitute negligence.

[45] Indeed, the RCMP has a long history of systemic and individual harassment, reprisals, psychological abuse, abuse of power and discrimination on the basis of linguistic affiliation, and engagement in freedom of association advocacy.

[46] As appears from the example cases of Messrs. Delisle and Girard, Dupuis and Lachance, members of the Classes suffered verbal and psychological harassment and, if they refused to be bullied on the above-cited grounds or to accept verbal and emotional harassment on the same grounds from their peers and superiors, they were threatened with and actually suffered unwarranted disciplinary action, arbitrary reassignment, denial of opportunity for advancement and pressure to leave the RCMP.

[47] And, in at least one documented case, members of the Class were subjected to harassment/reprisals because their spouse refused to submit to RCMP harassment and abusive disciplinary proceedings:

“ [30] In addition, one must recall that the mistreatment of the Applicant, who had previously enjoyed a successful career and was held in high esteem by colleagues and superiors alike, started when his wife made a complaint, and subsequently initiated a lawsuit, against the RCMP. For the RCMP members who tried bullying the Applicant into making his wife abandon those proceedings, there was no separation between their personal lives and his service. However appropriate it may be in other cases to distinguish personal life and career, and the stress caused by each, it was too late to do so here. The Applicant has suffered because this was not done, and it strikes me as unreasonable to deny him compensation on this basis.”

Lebrasseur v. Canada (Attorney General) 2010 FC 98 (cited in subparagraph 51 (d) of this application) (See also *Attorney General of Canada et al. v. Smith*, 2007 NBCA 58, para 51 (c) of this application).

[48] Members of the RCMP like Messrs. Delisle, Girard and Dupuis who have been advocating for years, if not decades, for their right to freedom of association – a right that was justly recognized by the Supreme Court in *Mounted Police Association of Ontario v. Canada (Attorney General)* – were bullied, harassed, tormented, subjected to reprisals, denied opportunity for advancement, pressured and forced to quit and to take early retirement.

[49] As Chief Justice McLachlin and Justice LeBel affirmed in their reasons in *Mounted Police Association of Ontario*, history “evidences a long standing hostility on the part of the RCMP management and successive Canadian governments to unionization in the Force” (*Mounted Police Association of Ontario v. Canada (Attorney General)* at paras. 107ff). A copy of this decision is communicated herewith as **Exhibit R-5**.

[50] The history of discrimination against francophone Members of the force is further illustrated by the Federal Court of Appeal's decision in the case of *Gingras v. Canada*, [1994] 2 FCR 734. In that case, the Federal Court of Appeal acknowledges that francophone members who were discriminated against in the awarding of the bi-lingual bonus are entitled to compensation. A copy of this decision is communicated herewith as **Exhibit R-6**.

[51] Over the years, the following cases of systemic harassment, reprisals and abuse of power by RCMP senior officers and management have become notorious:

(a) *Gustar v. Wadden*, 1993 CanLII 1558 (BC SC), a copy of this decision is communicated herewith as **Exhibit R-7**;

(b) *Sulz v. Attorney General et al*, 2006 BCSC 99, a copy of this decision is communicated

herewith as **Exhibit R-8**;

- (c) *Attorney General of Canada et al. v. Smith*, 2007 NBCA 58, a copy of this decision is communicated herewith as **Exhibit R-9**;
- (d) *Lebrasseur v. Canada (Attorney General)*, 2010 FC 98 CanLII, a copy of this decision is communicated herewith as **Exhibit R-11**;
- (e) *D'Angelo v. Attorney General of Canada*, 2014 FC 1120, a copy of this decision is communicated herewith as **Exhibit R-12**; and
- (f) *Merrifield v. Attorney General*, 2008 CanLII 34227 (ONSC), a copy of this decision is communicated herewith as **Exhibit R-10**;

[52] In addition, several independent public reports criticize the culture, organization and management of the RCMP and point to generalized issues within RCMP's management and its handling of ethical, disciplinary and work place complaints:

- (a) The RCMP Yesterday, Today and Tomorrow: An Independent Report concerning Workplace Issues at the Royal Canadian Mounted Police (the "**Duxbury Report**"), a copy of this which is communicated herewith as **Exhibit R-13**;
- (b) Rebuilding the Trust: Task Force on Governance and Cultural Change in the RCMP, December 2007, (the "**Brown Report**"), a copy of this which is communicated herewith as **Exhibit R-14**; and
- (c) Rebuilding Bridges: Report on Consultation of Employees and Managers of the RCMP – C Division, November 5, 2008 (the "**Robichaud Report**"), a copy of this which is communicated herewith as **Exhibit R-15**.

[53] The authors of the Brown Report (R-14) conclude, *inter alia*, as follows:

“During the Task Force's consultations and deliberations, it became apparent that radical changes were required in the way that the RCMP accounts to the public, to elected officials and to its members and employees. Several factors converged to produce this conclusion.

The Task Force heard numerous concerns about the handling of discipline and grievance matters. Members do not have recourse to an independent adjudicative process that is binding on the Commissioner. Instead, in those prescribed categories of appeals that may go to external review, that review body's comments are only advisory. With respect to the repeated concerns about the length of time experienced by the members throughout their grievance and discipline process, there appears to be little accountability. Additionally, we heard of no consolidation or analysis of information generated from these processes for the purpose of assessing trends or identifying areas in need of further training.” (R-14 at p. 11)

“(...) the Task Force received numerous complaints about the discipline process from members of the Force. In the view of many members, it has become overly formalistic and adversarial. Disciplinary matters, even for

relatively minor breaches of the Code of Conduct, become protracted with a consequent disruption in the lives of those charged and a strain on the detachment where the member serves. Time limits designed to expedite the process are frustrated by tactical delays by both parties.” (R-14 at pp. 29-30)

[54] The authors of the Robichaud Report (R-15) conclude, *inter alia*, as follows:

“the lack of equity and accountability in how the promotional system is put into practice are largely the source of the crisis of confidence that is afflicting the organization” (R-15 at p.15)

“3. Ethics, discipline and conflict management (...)

The following management practices were criticized continually:

- *Discreetly resolving cases of discipline or reprehensible behaviour by simply transferring the people in question in the hopes that the unfortunate events would not recur, rather than dealing with them directly.*
- *Placing these people in positions that require no supervision, “sidelining” people rather than applying appropriate measures.*
- *Conversely, applying disciplinary measures for insignificant matters in order to “wash their hands” of the person and to avoid having to manage the events in question.*
- *Turning a blind eye to “mediocre performance, incompetence and especially reprehensible actions when it suits them.”* (R-15 at pp- 18-19)

[55] The Commission for Public Complaints Against the Royal Canadian Mounted Police issued a Final Report in 2013 stemming from their investigation into RCMP workplace harassment, and concluded that “Allegations of harassment within the RCMP workplace are not a new phenomenon”. The report also determined “However, it is only in relatively recent times that harassment within the RCMP has attracted widespread public concern.” A copy of this Report is hereby communicated as **Exhibit R-16**.

[56] The above-listed conduct and failures of the RCMP and its management was deliberate. In many cases it lasted for years and represented a marked departure from ordinary standards of civility, care and decent behaviour.

[57] Moreover, the Commissioner of the RCMP has publicly recognized the foregoing while admitting to the extent of the bullying and harassment problem in the RCMP. A copy of the CBC news article quoting the Commissioner on this is hereby communicated as **Exhibit R-17**.

[57.1] Since the notification of the “Amended Judicial application to authorize class action

proceeding #2” new events occurred and the following allegations are necessary in order to complete the application.

- [57.2] Following the filing of the “Judicial Application to Authorize Class Action Proceeding” attorneys of the Applicants have created a website to allow members of the RCMP to report in a confidential and privileged manner the discrimination they have suffered. A copy of the website’s screenshot is hereby communicated as **Exhibit R-24**.
- [57.3] On October 23rd, 2018 more than (3 000) three thousand active and former members came forward under the condition of confidentiality, including and mostly through the above-mentioned website regarding the harassment in the RCMP.
- [57.4] In addition, several hundred current members across Canada have communicated, in a privileged and confidential manner, through the website, the details of the harassment that they have suffered in the RCMP.
- [57.5] Moreover, several hundred current and former members, as well as their family members, have asked, through the website and under conditions of confidentiality, to participate in the present class action.
- [57.6] On May 15, 2017 the Honorable Ralph Goodale, Minister of Public Safety and Emergency Preparedness (and responsible for RCMP) had released the following statement:
- “The Prime Minister gave me the mandate to ensure that the RCMP is a healthy workplace, free from harassment and sexual violence. Both he and I are strongly committed to whatever action is necessary to help RCMP members, trainees and employees feel safe and respected amongst their colleagues and supervisors.
- Both reports describe similar serious and longstanding concerns relating to harassment issues with the RCMP. The issue identified come at a great cost – to the victims’ health and wellbeing, to the reputation and credibility of the RCMP, and to all Canadians. The recommendations will be carefully reviewed and will inform further action to ensure that RCMP is a healthy and respectful workplace.
- The Force continues ongoing efforts to improve its work environment, including a modernized Code of Conduct, a streamlined harassment investigation and resolution process, and improve training for harassment investigators. In addition, last fall’s formal apology and compensation to women who experienced harassment in the Force helped to bring closure for those affected by a deeply troubling period in the Force’s history, and demonstrated a clear desire to move forward.”
- A copy of the statement is annexed hereto as **Exhibit R-23**.
- [57.7] The scope of harassment in the RCMP is so widespread that even the commissioner of the RCMP Bob Paulson declared that he had been a victim of harassment as well, the whole as appears from the report dated May 17, 2017, a copy of which is hereby communicated as **Exhibit R-25**.

- [57.8] The campaign of harassment and intimidation which still lasts within the RCMP causes prejudice to all current and former members of the RCMP, as well as to their families.
- [57.9] On December 1st, 2016, the workforce of the RCMP consisted of twenty nine thousand one hundred and eighty eight (29, 188) persons of which twenty-two thousand, five hundred and nine (22,509) are current and civil members according to the document titled “Structure organisationnelle de la Gendarmerie Royale du Canada” dated October 24, 2017, a copy of which is annexed hereto as **Exhibit R-26**.
- [57.10] On May 30, 2017, Justice McDonald of the Federal Court of Canada approved the settlement of a class action against the RCMP regarding harassment and discrimination based on gender. A copy of judgment is annexed hereto as **Exhibit R-27**.
- [57.11] On or around August 11, 2017, members of the RCMP received an announcement from the RCMP stating that the harassment based on gender is compensated through the abovementioned settlement, whereas the harassment that affects the group of members through the current “Judicial Application To Authorize Class Action” persists without compensation, a copy of which is annexed hereto as **Exhibit R-28**.
- [58] All of the above mentioned conduct and the RCMP's failure to respect its duties constitute a civil fault, a breach of the Charter Rights of the members of the Classes, an abusive exercise of discretion and power by the RCMP and its management, and furthermore, is in breach of the RCMP's general obligations towards its Members as well as section 37 of the RCMP Act.
- [59] Consequently, the members of the Classes have variously suffered serious injury and seek all consequential moral and pecuniary damages including all damages related to psychological trauma, mental illness, post traumatic stress disorder, out-of pocket expenses, loss of income, loss of opportunity for advancement, loss or reduction of pension benefits, punitive damages and damages assessed under section 24 of the Charter.

IV. THE CLAIMS OF THE MEMBERS RAISE IDENTICAL SIMILAR OR RELATED QUESTIONS OF LAW OR FACT

- [60] Applicants respectfully submit that the following common or related questions of law and fact arise from the allegations contained in these proceedings:
- (a) Did the RCMP, its management and senior officers, owe the members of the Classes a duty to respect their Charter Rights and to provide a work environment exempt from harassment, reprisals, discrimination or abusive use of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?
 - (b) Did the RCMP, its management and senior officers, owe the members of the Classes a duty to prevent harassment, reprisals, bullying, discrimination and abuse of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?
 - (c) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to consequential damages that can be recouped by the members of the Classes and, if so, in

what amount?

- (d) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to moral and/or punitive damages that can be recouped by the members of the Classes and, if so, in what amount?
- (e) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to damages under section 24 of the Charter that can be recouped by the members of the Classes and, if so, in what amount?

[61] Accordingly, Applicants seek the following conclusion to be certified by this Honourable Court:

DECLARE that the RCMP, its management and its senior officers owed duty to the members of the Classes to:

- (i) use reasonable care to ensure the well-being of its Members;
- (ii) provide safe workplace environment free from harassment, reprisals discrimination and abuse of authority on any grounds but in particular or charter protect right such as linguistic affiliation and advocacy for freedom of association and unionization;
- (iii) provide equal employment and advancement opportunities to its members, regardless of their linguistic origin and regardless of their advocacy regarding freedom of association and union related activities;
- (iv) establish and enforce appropriate policies, codes, guidelines and procedures to ensure all of the above-mentioned obligations;

DECLARE that the RCMP, its management and its senior officers breached the above-cited duties as regards the members of the Classes;

ASSESS the damages suffered by the members of the Classes on a collective basis and **CONDEMN** the Defendant to pay such damages on a collective basis **OR IN THE ALTERNATIVE, DECLARE** that the damages suffered by the members of the Classes were so suffered on an individual basis and **ORDER** the Defendant to pay such damages on a individual basis;

CONDEMN the Defendant to the payment of compensatory moral and punitive damages in the amount determined by the Court.

ORDER the implementation of preventative and remedial measures to prevent and protect against harassment within the RCMP.

V. THE COMPOSITION OF THE CLASS MAKES IT DIFFICULT OR IMPRACTICABLE TO APPLY THE RULES OF MANDATE

- [62] There are numerous members of the Classes located throughout Canada some of whom are currently employed by the RCMP and some of whom are not.
- [63] Given the number of potential members of the Classes and their geographic disposition, it would be difficult or impracticable to address the issues raised in these proceedings on an individual basis or by way of mandate.

VI. THE PROPOSED REPRESENTATIVES ARE IN A POSITION TO PROPERLY REPRESENT THE CLASSES

- [64] Delisle, Dupuis and AMPMQ has been involved in advocacy relating to the issues raised in these proceedings for decades and has been actively involved in the protection of its members from the types of harassment, bullying and discrimination addressed in these proceedings.
- [65] The AMPMQ have prepared and presented briefs on these issues to several Parliamentary and Senatorial Committees, as well as to several inquiries into the RCMP (see for example R-13, the Brown Report).
- [66] The AMPMQ have retained counsel and experts experienced in the subject matter of these proceedings.
- [67] The individual Applicants have all suffered directly from the alleged harassment, reprisals and discrimination and have long been advocates militating against such practices. They have the knowledge, experience, dedication and time necessary to advance the class action proposed in these proceedings.
- [68] Accordingly, the AMPMQ and the individual Applicants are well placed to represent Members of the Classes.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

AUTHORIZE the proposed class action;

AUTHORIZE the Class and each of the Sub-classes as follows:

The Class: All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other Members and employees, including in a manner infringing any of their Charter Rights.

- (i) **Linguistic Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the

performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other Members and employees on the basis of their francophone (or other) linguistic affiliation.

(ii) **Freedom of Association Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other Members and employees because of their role in advocating for Members' rights to freedom of association and right to form a union.

The Secondary Class: Every person who is not included in the class and who is a family member of a person who is part of a class and who suffered direct damages in connection with physical and psychological harassment, reprisals, discrimination and/or abusive exercise of power suffered by a member of one of the classes.

Excluded Persons: Persons excluded from all of the proposed classes, are those who have been victims of physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power based on gender, sexual orientation or preferences who will be alternatively covered by the definition of the proposed Class in the proceedings bearing the following court file numbers: T- 1685-16, CV-15-5247600CP, S-122255, CV- 16-563275 and 5000-06-000819-165.

NAME the AMPMQ and the individual Applicants as representatives of the Classes;

AUTHORIZE the following common question of fact and law:

(a) Did the RCMP, its management and senior officers, owe the members of the Classes a duty to respect their Charter Rights and to provide a work environment exempt from harassment, reprisals, discrimination or abusive use of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?

(b) Did the RCMP, its management and senior officers, owe the members of the Classes a duty to prevent harassment, reprisals, bullying, discrimination and abuse of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?

(c) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to consequential damages that can be recouped by the members of the Classes and, if so, in what amount?

(d) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to moral and/or punitive damages that can be recouped by the members of the Classes and, if so, in what amount?

(e) Did the RCMP, its management and senior officers, wrongful conduct cause or give rise to damages under section 24 of the Charter that can be recouped by the members of the Classes and, if so, in what amount?

AUTHORIZE the following conclusion to the class action:

DECLARE that the RCMP, its management and its senior officers owed duty to the members of the Classes to:

- 1. use reasonable care to ensure the well-being of its Members;*
- 2. provide safe workplace environment free from harassment, reprisals discrimination and abuse of authority on any grounds but in particular or charter protect right such as linguistic affiliation and advocacy for freedom of association and unionization;*
- 3. provide equal employment and advancement opportunities to its members, regardless of their linguistic origin and regardless of their advocacy regarding freedom of association and union related activities;*
- 4. establish and enforce appropriate policies, codes, guidelines and procedures to ensure all of the above-mentioned obligations;*

DECLARE that the RCMP, its management and its senior officers breached the above-cited duties as regards the members of the Classes;

ASSESS the damages suffered by the members of the Classes on a collective basis and **CONDEMN** the Defendant to pay such damages on a collective basis **OR IN THE ALTERNATIVE, DECLARE** that the damages suffered by the members of the Classes were so suffered on an individual basis and **ORDER** the Defendant to pay such damages on a individual basis;

CONDEMN the Defendant to the payment of moral and/or punitive damages in the amount determined by the Court.

ORDER the implementation of preventative and remedial measures to prevent and protect against harassment within the RCMP.

AND TO THIS END:

DECLARE the Respondent liable for the cost of judicial and extra-judicial fees and

*disbursements, including fees for expertise incurred in the present matter for and in the name of the Applicant and Class Members and **ORDER** collective recovery of these sums;*

***CONDEMN** the Respondent to pay the Applicant and Class Members the above mentioned sums with interest at the legal rate, plus the additional indemnity provided by law, to accrue from the date of service of the present motion;*

***ORDER** the implementation of preventative and remedial measures to prevent and protect against harassment within the RCMP.*

***CONDEMN** the Respondent to pay the costs incurred for all investigation necessary in order to establish the liability of Respondent in this matter, including the extrajudicial fees of counsel for Applicant and the Class Members and extra-judicial disbursements, including the costs of expertise;*

***ORDER** provisional execution;*

***RENDER** any other order that this Honorable court shall determine may be just and proper;*

***THE WHOLE WITH COSTS**, including the cost of notices.*

Montreal, February 23, 2018

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