

Court File No.: T-370-17

**FEDERAL COURT**

Proposed Class Proceeding

TODD EDWARD ROSS, MARTINE ROY and ALIDA SATALIC

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

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**STATEMENT OF CLAIM TO THE DEFENDANT**

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a Statement of Defence in Form 171B prescribed by the Federal Court Rules serve it on the Plaintiffs' solicitor or, where the Plaintiffs do not have a solicitor, serve it on the Plaintiffs, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this Statement of Claim to the Defendant is served on you, if you are served in Canada.

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

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court in Montreal (telephone 514 283-4820) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date March 15, 2017

Issued by Emmanuelle Belice  
Senior Registry Officer

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TO: **Her Majesty the Queen**  
**Office of the Deputy Attorney General of Canada**  
284 Wellington Street  
Ottawa, Ontario K1A 0H8

## A. CLAIM

The Plaintiffs Todd Edward Ross (“**Todd**”), Martine Roy (“**Martine**”), and Alida Satalic (“**Alida**”) claim on their own behalf and on behalf of class members (as defined below):

- a. an order certifying this action as a class proceeding and appointing Todd, Martine, and Alida as representative plaintiffs under the *Federal Courts Rules*, SOR/98-106;
- b. a declaration that the Defendant, Her Majesty the Queen, breached its contractual and extra-contractual obligations, its duty of care, and its fiduciary duty to the Plaintiffs and the class members;
- c. a declaration that the Defendant infringed the class members’ rights and freedoms guaranteed by section 15 of the *Canadian Charter of Rights and Freedoms* (“**Canadian Charter**”) as well as sections 10, 10.1 and 16 of the *Quebec Charter of Human Rights and Freedoms* (the “**Quebec Charter**”);
- d. general pecuniary and non-pecuniary damages for the Defendant’s breaches of its contractual and extra-contractual obligations, its duty of care, and its fiduciary duty to the class members;
- e. damages for the Defendant’s breaches of the Quebec Charter;
- f. damages pursuant to s. 24(1) of the Canadian Charter;
- g. exemplary damages and punitive damages, as well as punitive damages under s. 49 of the Quebec Charter;
- h. pre-judgment and post-judgment interest pursuant to the *Federal Courts Act*, R.S.C., 1985, c. F-7;
- i. the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to Rule 334.38 of the *Federal Courts Rules*, SOR/98-106;
- j. such further and other Relief as to this Honourable Court may seem just.

## B. INTRODUCTION

1. In the 1950s, the Government of Canada (“**GOC**”) began a prolonged and widespread campaign to identify and expel thousands of lesbian, gay, bisexual and transgender (“**LGBT**”) members of the Canadian Armed Forces (“**CAF**”) and the federal

public service (collectively, the “**LGBT Federal Public Servants**” or “**class members**”) from the ranks of these institutions.

2. Under the auspices of this campaign, Canadians were investigated, sanctioned and, in many cases, terminated from their careers with the Federal Public Service (“**FPS**”) and the CAF not because of anything they had done, but solely because of their sexual orientation, gender identity or gender expression.

3. This systematic policy of identification and elimination, referred to in these proceedings as the “**LGBT Purge**”, continued even after homosexual acts were officially decriminalized in Canada on June 27, 1969. The LGBT Purge was implemented at the highest levels of the Government of Canada and was carried out with callous disregard for the dignity, privacy and humanity of its targets.

4. The LGBT Purge caused tremendous harm to the affected LGBT Federal Public Servants, an already vulnerable group. In the course of this Purge, the GOC and its employees subjected class members to persistent discriminatory, humiliating and injurious treatment, demeaning their dignity and infringing their basic human rights. Class members have suffered lasting psychological repercussions from the GOC’s conduct, including anxiety, shame and grief over their humiliating experiences. Some class members additionally suffered physical injuries in the course of the Purge that have in turn resulted in post-traumatic stress disorder.

5. Members of the CAF in particular were treated as though they had betrayed their country and were unfit to serve. They were expelled from an organization they deeply admired, and that many perceived as a second family. They were denied the respect

and benefits normally accorded to veterans, and were instead treated as unworthy outcasts.

6. The LGBT Purge is a blight on Canadian values, and it must be denounced in the clearest terms.

### **C. THE CLASS**

7. The Plaintiffs wish to institute a class action, on their own behalf and on behalf of the members forming part of the following class:

All current or former employees of the Canadian Armed Forces, the Government of Canada or Federal Crown Agencies who were investigated, discharged, terminated, sanctioned or faced threat of sanction, by the GOC because of their sexual orientation, gender identity or gender expression, between June 27, 1969 and the present day.

### **D. THE PLAINTIFFS**

#### **I. TODD ROSS**

8. Todd volunteered to join the CAF on December 15, 1987, at the age of 18, and served on the HMCS Saskatchewan as a Naval Combat Information Operator. His service during this short period was excellent.

9. While serving, Todd was brought under investigation by the Special Investigation Unit (“**SIU**”) of the Military Police beginning in January 1989.

10. The investigation focused on Todd's sexual orientation and included repeated demands for polygraph tests designed to intimidate Todd into revealing his homosexuality.

11. The 18-month investigation of Todd ended with him admitting his homosexuality while attached to a polygraph machine. At this point Todd was still in denial of his own sexuality. The experience was incredibly traumatic for him. He sat in a chair in front of a stranger – hooked up to a polygraph machine with a recording device on and facing a two-way mirror – and tearfully admitted that he was gay.

12. After the conclusion of the investigation, Todd was given an ultimatum: accept an honourable discharge or spend the remainder of his naval career performing “general duties,” with no hope for promotion or advancement.

13. Todd was only 21 years old. Feeling he had no real option, Todd opted to accept the discharge and was discharged on June 20, 1990. He was paid back what he had paid into his pension for 2.5 years.

14. Todd felt he could not speak to his family out of shame, or to his friends out of fear of rejection. He could not speak to his colleagues and those close to him about his situation out of fear that the military would investigate them as well. He also felt that he had somehow betrayed his country. As a result, Todd became suicidal.

15. Todd lost the opportunity to pursue his career in the military, to rise through the ranks, and to earn benefits as a member of the navy and, on retirement, as a pensioned veteran. All of these losses occurred solely because of the harmful conduct of the GOC

toward him, which was motivated solely by discrimination based on his sexual orientation.

## II. MARTINE ROY

16. Martine joined the CAF in 1981 at the age of 19 because she wanted to serve and protect her country.

17. Martine completed basic training at Saint-Jean-Sur-Richelieu and went on to complete language and medical assistant training at Canadian Force Base (“CFB”) Borden. She was proud, committed, and, like Todd, was looking forward to a long and rewarding military career.

18. One day, while Martine was participating in field training at CFB Borden, a K-car approached. Two individuals stepped out and asked her to get in the car. She thought these were civilians who had gotten lost on the base. They were not. The individuals identified themselves as part of the SIU and told her she was being arrested. They drove her to a small building at the edge of the base that Martine had not known existed.

19. In a small, dimly lit room, Martine was interrogated for nearly five hours about every detail of her sexual history, habits, and preferences. Questions included: “who did you sleep with?” and “how often did you have sex?”

20. Martine’s interrogators told her that if she confessed to her “perversions”, she could stay in the CAF. Exhausted, scared and humiliated, she said she was young, experimenting and confused.

21. After she “confessed” to the SIU, Martine was released from the interrogation. She felt a fear unlike any she had ever imagined.

22. Following her release, Martine’s life in the army seemed to resume its course. She began a two-year contract as a medical assistant at the National Defence Medical Center in Ottawa.

23. A few months later, she was summoned to the office of a psychologist so he could determine whether she was “normal” or “abnormal”. She attended several humiliating and degrading sessions and then, once again, she did not receive any news for several months.

24. Prior to the end of her two-year contract Martine was offered her dream job: a three-year contract as communications researcher in Kingston. She received the necessary “Top Secret” clearance. She bought her first car.

25. Shortly thereafter, in December 1984, Martine was called from her post in the pharmacy and ordered to report to the office of the base Colonel. She was asked whether she knew why she was there. She answered: “no”. Martine was told that she was a deviant and that she was being discharged for homosexuality. She had nine days to pack her things and go.

26. Martine returned to Quebec, where she experienced severe emotional trauma that continues to this day. She struggled for years with drug addiction, underwent intensive therapy, had difficulty maintaining relationships, and lived with the constant



fear and anxiety that she could not be her authentic self, lest she be rejected by her employer or those close to her.

### **III. ALIDA SATALIC**

27. Alida enrolled in the CAF in 1981 as a recruit at CFB Cornwallis in Deep Brook, Nova Scotia. She was transferred to CFB Borden, CFB Trenton and CFB Greenwood at various times during her employment as a postal clerk.

28. While she was a postal clerk at CFB Trenton, Alida was repeatedly interrogated on the pretext of security screenings by the SIU.

29. During these interrogations, Alida was asked questions about her sexual orientation and was asked whether she knew any lesbians or gay men in the military.

30. Upon admitting that she was a lesbian, Alida was questioned about her intimate sexual encounters in graphic detail. These interrogations left Alida feeling angry, humiliated and helpless.

31. After admitting that she was gay, Alida was told to see the Base Surgeon so that the Base Surgeon could document that she “fulfilled the definition of a homosexual”.

32. Alida was subsequently posted to CFB Greenwood and was given the option of either: (a) retaining her position without any further career courses or promotions; or (b) accepting a release under 5(d) of the Queen’s Regulations and Orders for the Canadian Forces (“Not Advantageously Employable”). Alida accepted the 5(d) release, which was dated January 23, 1989.

33. Alida re-enrolled in the CAF in 1993 in Saint John, New Brunswick. However, as a result of losing 4 years of military service, her career trajectory and earning potential were limited and she suffered losses to her salary and pension from the CAF.

34. Alida's release from the CAF had an immense impact on her life, her sense of self-worth and her self-esteem. She continues to experience trust issues with authorities, fear of additional discrimination, anxiety, humiliation and anger.

35. Todd, Martine, and Alida all went through gruelling training, each determined, proud, committed and looking forward to a long and rewarding military career.

36. The day each of the plaintiffs was purged from the military was a day that changed his or her life forever. Each pleaded to stay in the CAF, to no avail. Their self-esteem and value systems were decimated. Todd, Martine, and Alida each lost the opportunity to pursue their careers in the military, to rise through the ranks, to earn benefits and to collect a pension.

37. Todd, Martine, and Alida are all survivors. Their stories are harrowing but unfortunately not unique. They, along with the class members they seek to represent, are entitled to be compensated for what they endured at the hands of the GOC.

## **E. THE LGBT PURGE**

### *A) The Policy*

38. The Defendant, Her Majesty the Queen ("**HMQ**"), represented by the Attorney General of Canada, is the legal representative of the CAF, the Department of National

Defence (“**DND**”), the Royal Canadian Mounted Police (“**RCMP**”) and other Federal Government employers. The Defendant and its employees are collectively referred to as the Government of Canada or GOC. At all times that are material to these proceedings, the GOC employed the Plaintiffs and members of the proposed class.

39. The GOC’s role in developing and propagating the LGBT Purge stretches back over half a century. The GOC historically considered that LGBT individuals’ “weaknesses”, “unreliability” and “immoral” or “unethical” traits made them vulnerable to blackmail and compromise, such that they were threats to national security. These alleged apprehensions translated into the adoption of specific policies to limit or prevent LGBT persons from working within certain sectors of the federal public service.

40. The GOC most actively sought to purge LGBT Federal Public Servants from various organs of the Canadian military. In 1946 the GOC established a Security Panel to address these national security concerns within various military bodies. In 1948, the Security Panel was granted broad powers to investigate suspected LGBT individuals and to set up a policy to target, limit, and terminate suspected LGBT members of the Royal Canadian Navy, the Canadian Army, and the Royal Canadian Air Force and DND.

41. In the decades that followed, LGBT members of the Canadian military service had reason to fear discovery and dismissal. The Security Panel conducted its investigations in secret, and individuals targeted by these investigations had no opportunity to defend themselves against the Panel’s allegations. There was no means of appeal or any process of independent review of the Security Panel’s actions or

decisions. At the Security Panel's urging, military departments sanctioned, transferred or terminated thousands of individuals on the basis of their actual or perceived sexual orientation, gender identity or gender expression.

42. In 1968 the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force were merged into the CAF, which operates pursuant to the *National Defence Act*, R.S.C., 1985, c.-5 and its predecessor legislation.

43. In that same year, the "Report of the Royal Commission on Security" chaired by Maxwell McKenzie (the "**McKenzie Report**") was submitted to the GOC. The Royal Commission on Security had been mandated to conduct a confidential inquiry into the operation of the Canadian security apparatus. Following this inquiry, the McKenzie Report recommended that a new administrative board be established to deal with appeals against security decisions to ensure that the rights of individuals had not been unnecessarily abrogated or restricted in the interests of security.

44. Despite this, and despite the 1969 amendment to the *Criminal Code* that made homosexual acts in private between two consenting adults legal in Canada, the Security Panel continued to collect intelligence on LGBT individuals employed by the GOC, and the LGBT Purge continued.

45. The LGBT Purge was not limited to the CAF and the DND. The GOC's policy of identifying, investigating, sanctioning and/or ultimately terminating LGBT individuals extended to other branches of the federal public service, particularly where "security" could be used as a pretext to investigate the LGBT Federal Public Servants.

46. Indeed, a 1981 report entitled “Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police” acknowledged that for over two decades the Security Service had been engaged in concerted efforts to collect information on LGBT members of the RCMP. Being identified as potentially LGBT could result in interrogation with a device created for the detection of homosexuality that was known colloquially as the “Fruit Machine”, which was developed by the Carleton Psychology Department using funding from the GOC.

47. Ultimately, the GOC’s campaign of surveillance targeted thousands of LGBT Canadians serving the federal government over the course of multiple decades. The LGBT Purge continued notwithstanding the adoption of the Quebec Charter in 1972 and its protections against discrimination on the basis of sexual orientation, gender identity and gender expression in 1975; and notwithstanding the adoption of the Canadian Charter in 1982 and the coming into force of s. 15 of that Charter in 1985.

48. While the LGBT Purge spread across the federal public service, the GOC’s investigative procedures and sanctions were most extensively developed and widely implemented within the CAF and the DND. In these departments, the SIU investigated, interrogated, and ultimately sought the termination of members of the CAF and the DND who were suspected of or admitted to being homosexual. Indeed, the Plaintiffs in this proceeding were all subject to the SIU’s invasive and humiliating tactics.

49. Specifically, once it was suspected that an employee of the CAF or the DND was LGBT, the department would take some or all of the following actions:

- (a) the individual was put under surveillance;

- (b) the individual was interrogated and asked specific, deeply personal questions regarding sexual orientation and sexual practices;
- (c) the individual was forced to reveal names of other LGBT members of the CAF or the DND;
- (d) the individual was threatened with criminal charges and incarceration;
- (e) the individual's badge, credentials, and weapon were taken;
- (f) the individual was denied security clearance or his or her existing security clearance was withdrawn;
- (g) the individual was suspended from employment;
- (h) the individual was demoted to a less "sensitive" position;
- (i) the individual was pressured to resign; and/or
- (j) the individual was discharged.

50. In many circumstances, the SIU would arrive unannounced at a suspected individual's home. The target would be taken to an undisclosed location without food, water, or counsel, and would be harassed, intimidated, and questioned until he or she confessed to being a homosexual. Once the SIU had obtained a confession, the individual would be pushed to name other LGBT individuals, who would in turn be subjected to the same treatment.

51. Many of those who confessed were subsequently discharged from military service, and their employment files were marked "Not Advantageously Employable," a lifelong designation that permanently limited future employment possibilities with the GOC.

52. Others who were identified as LGBT were not officially terminated but, like Todd and Alida, were instead pressured to resign from their posts. Targeted individuals were harassed both physically and psychologically, ordered to move off military bases, told

not to attend social events or other forms of entertainment and asked not to socialize with friends. They were furthermore sometimes explicitly informed that if they did not leave the service “voluntarily”, they would be barred from receiving promotions or would be denied access to training and courses required to advance their careers. Faced with such “options”, many – including those for whom a life of service in the CAF had been a longstanding goal – quit government work.

53. While the official policy of institutional discrimination in the federal public service ended in the 1990s, homophobia and trans-phobia have persisted in certain GOC departments, particularly the RCMP and CAF. Ultimately, and in part because the GOC has deliberately concealed the extent of the LGBT Purge from the public, the full scope of this state-sanctioned policy of discrimination remains unknown.

*B) Effects of the LGBT Purge*

54. LGBT Federal Public Servants who were subject to the LGBT Purge suffered significant and enduring harm as a result of the actions of the GOC and its employees.

55. In addition to the obvious violation of their privacy and dignity, LGBT Federal Public Servants affected by the Purge faced various immediate sanctions by the GOC, including dismissal, transfer, demotion, and denial of opportunities for promotion. Many class members were persistently harassed with the explicit aim of pushing them out of their jobs.

56. In the most extreme cases, individuals were assaulted or sexually assaulted because of their sexual orientation, gender expression or gender identity. Such assaults

were effectively another means of pressuring class members to quit their positions with the GOC.

57. Class members' treatment at the hands of the GOC also resulted in long-term psychological effects. Many LGBT Federal Public Servants continue to experience shame, depression, fear of losing their jobs or of interacting with the federal government, and difficulty maintaining personal relationships. Some have been diagnosed with post-traumatic stress disorder arising from their experiences being targeted by the GOC.

58. Many persons in the LGBT community also continue to live "in the closet", especially the older generation most sharply impacted by the LGBT Purge. Some LGBT Federal Public Servants avoided sanction or termination from their positions only by hiding their sexual orientation; many such class members continue to suffer serious, damaging psychological effects from having to mask such a personal aspect of their identities for years.

59. Because of the psychological trauma they suffered and continue to suffer, and the shame they were made to feel by the GOC, many who were victims of the LGBT Purge have been reluctant or unable to disclose what happened to them, let alone take action about it. In fact, Martine – while a longstanding activist within the LGBT community – was herself unable to appreciate the full extent of the effect of her experiences on her emotional and psychological state until 2016.



## F. CAUSES OF ACTION

### A) *Negligence and Civil Liability*

60. At all material times, the Defendant GOC had a responsibility to the Plaintiffs and the class members to create and maintain a workplace free from discrimination and harassment on the basis of sexual orientation. Whether this is pursuant to a common law duty of care or the duty not to cause harm to others articulated by art. 1457 of the *Civil Code of Quebec* (previously art. 1053 of the *Civil Code of Lower Canada*), the Defendant clearly breached this duty.

61. In Quebec, the physical and psychological harm suffered by the class members was a direct and immediate consequence of their investigation, sanction, discharge or termination by the GOC.

62. In the rest of Canada, since the GOC employed all the class members, the relationship between GOC and the class members was sufficiently direct and proximate as to give rise to a duty of care. At the very least, this duty obliged the GOC and its employees to refrain from engaging in the kind of discriminatory conduct actually required and perpetuated by the LGBT Purge. The physical and psychological harm class members suffered as a result of the implementation of the LGBT Purge was a wholly foreseeable consequence of the GOC's actions. Indeed, this type of harm was the intended consequence, since the GOC's policy meant to drive LGBT individuals out of the federal public service.

63. In short, the GOC and its employees repeatedly, systematically, and intentionally breached their obligations to class members and in so doing caused them significant injury for which the class members are now entitled to be compensated.

*B) Breach of Fiduciary Duty*

64. The relationship between the class members and the GOC was one of trust, reliance and dependency. At all material times, the GOC had significant control and discretion over the class members; these individuals were, by virtue of the nature of their work, subject to constant contact with, supervision by, and direction from the GOC. The CAF class members were in a position of particular vulnerability vis-à-vis the GOC, which had the power to make decisions relating to these class members that could have tremendous, life-and-death consequences.

65. Ultimately, the relationship between GOC and the class members went well beyond the kind that normally arises between an employer and its employees. As a result, the Defendant owed the class members in particular a fiduciary duty.

66. The existence of this fiduciary duty gave rise to a reasonable expectation on the part of the class members that the GOC would act in their best interest, ensuring that they were treated respectfully, fairly and safely. At the very least, the class members could reasonably expect that the GOC would not actively harm and denigrate them.

67. To the extent that the class members relied on the GOC to fulfil its fiduciary obligations, this reliance was misplaced, to the class members' great detriment. Far from acting in these class members' best interests, the actions the GOC and its

employees took to establish and operate the LGBT Purge policy resulted in a flagrant breach of the Defendant's fiduciary duty to these individuals.

*C) Wrongful Dismissal*

68. The GOC breached the actual and implied employment contracts that it had with LGBT Federal Public Servants when it terminated their employment on the basis of their sexual orientation, gender identity or gender expression. Prior to June 27, 1969, there may have been justification for discharging some LGBT Federal Public Servants on the ground of criminal conduct. Thereafter, however, the mere fact of being an LGBT individual could not be just cause for dismissing that person.

*D) Abuse of Government Authority*

69. The GOC abused government authority by investigating, targeting, sanctioning and/or terminating the employment of the class members solely on the basis of their sexual orientation, gender identity, or gender expression.

70. The GOC therefore acted without legal justification and outside the scope of its authority. As stated in *Roncarelli v. Duplessis*, [1959] S.C.R. 121 at 140:

“Discretion” necessarily implies good faith in discharging public duty; there is always a perspective within which a statute is intended to operate; and any clear departure from its lines or objects is just as objectionable as fraud or corruption.

*E) Breach of Privacy and Intentional Infliction of Mental Distress*

71. The GOC engaged in a highly offensive intrusion on some of the most intimate aspects of LGBT Federal Public Servants' lives. Class members were followed, spied upon, entrapped and interrogated primarily because of their sexual orientation, gender identity, or gender expression. These are among the most private facets of class members' identities, such that the GOC's intrusion in this very personal sphere of class members' lives caused them significant and persistent psychological distress and suffering.

72. What is more, the GOC's conduct was expressly calculated to produce this kind of harm, or at the very least was pursued with reckless disregard to the harm that would reasonably result from the GOC's actions.

*F) Breach of the Canadian Charter and the Quebec Charter*

73. The LGBT Purge created a stark distinction between class members and other individuals employed in the federal public service, solely on the basis of class members' sexual orientation, gender identity or gender expression. This distinction resulted in enormous prejudice to the class members, and it moreover sent the message that LGBT individuals were not fit for military or public service. The LGBT Purge effectively perpetuated the view that LGBT persons are less worthy than others of legal and other protections, and that they are incapable of safely and effectively performing the same functions as other individuals employed by the GOC.

74. By actively engaging in the LGBT Purge, the GOC thus infringed class members' rights under s. 15(1) of the Canadian Charter in a manner that cannot be justified in a free and democratic society.

75. Given the nature of the harm suffered by the class members and the flagrant and abusive character of the GOC's actions, the only appropriate and just remedy for this violation is an award of damages under s. 24(1). Damages would compensate class members' personal loss, including the permanent psychological harm they have suffered. Damages would also vindicate class members' rights, and would serve the important public purpose of deterring comparable government action in the future.

76. Moreover, in carrying out the LGBT Purge, the GOC harassed class members and denied them full recognition of their human rights and freedoms based on their sexual orientation, gender identity or gender expression. The GOC further terminated class members' employment on this basis. In so doing, in Quebec, the GOC breached class members' rights under 10, 10.1, and 16 of the Quebec Charter.

## **G. DAMAGES**

77. The Plaintiffs claim, on their own behalf and on behalf of the class, all pecuniary damages stemming from the GOC's actions in implementing its LGBT Purge policy.

78. The Plaintiffs further claim non-pecuniary damages for the following injuries stemming from the implementation of the LGBT Purge, on their own behalf and on behalf of the class:

- (a) emotional and psychological harm and distress;
- (b) exacerbation of psychological illness and the creation of new psychological illnesses;
- (c) an impaired ability to enjoy and participate in recreational, social, and employment activities and to form personal relationships;
- (d) the loss of general enjoyment of life; and

- (e) such further and other non-pecuniary damages as the plaintiffs and class members may advise prior to trial in this matter.

79. The Plaintiffs also claim exemplary and punitive damages on their own behalf and on behalf of the class, for the GOC's wanton and callous disregard for class members' interests, safety and well-being. Given that the GOC's actions were deliberate and constituted an abuse of power, an award of punitive damages is important for deterring such conduct going forward.

80. In Quebec, the GOC's actions resulted in unlawful and intentional interference with class members' rights and freedoms, making the Plaintiffs entitled to punitive damages under s. 49 of the Quebec Charter.

81. Finally, the Plaintiffs seek damages under s. 24(1) of the Canadian Charter on their own behalf and on behalf of the class. Martine Roy additionally claims damages under ss. 10, 10.1, and 16 of the Quebec Charter on her own behalf and on that of the Quebec class members.

## **H. STATUTES**

82. The Plaintiffs plead and rely upon the following statutes and regulations:

- (a) *Crown Liability and Proceedings Act*, RSC 1985, c. C-50;
- (b) *Federal Courts Act*, RSC 1985, c. F-7;
- (c) *Federal Courts Rules*, SOR 98/106;
- (d) *Criminal Law Amendment Act*, SC 1968-69, c. 38;
- (e) *Canadian Charter of Rights and Freedoms*, Part I of *the Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11;
- (f) *Charter of Human Rights and Freedoms*, CQLR c. C-12;

(g) *Civil Code of Lower Canada*; and

(h) *Civil Code of Quebec*, CQLR c. CCQ-1991.

83. The Plaintiffs propose that this action be tried in the City of Montreal.

March 13, 2017



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