

CANADA
Province of Québec
District: Montreal
File No. 500-06-

500-06-001134-218

SUPERIOR COURT
(Class Action Division)

CHLOE ISAAC, residing and domiciled at

-and-

GABRIELLE BOISVERT, residing and
domiciled at

-and-

ERIN WILLSON, residing and domiciled at

-and-

SION ORMOND, residing and domiciled

-and-

GABRIELLA BRISSON, residing and
domiciled at

Petitioners

**ORIGINATING APPLICATION
FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS
OF REPRESENTATIVE**

vs.

**CANADA ARTISTIC SWIMMING /
NATATION ARTISTIQUE CANADA**, a
company registered pursuant to the
Canada Not-For-Profit corporations act,
with its head office located at 700
Industrial Avenue, Suite 401, in the city of
Ottawa, in the Province of Ontario.

Respondent

**ORIGINATING APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS
ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE**
(Articles 574 et seq. C.C.P.)

IN SUPPORT OF THE PRESENT ORIGINATING APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE, PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

I. INTRODUCTION

1. Petitioners are amateur athletes and former members of Canada's national artistic swimming team (formally known as synchronized swimming). The Petitioners ask for authorization to represent the members of Canada Artistic Swimming's national team (the "**National Team**") who were subjected to psychological abuse, neglect and harassment, including sexual and racial harassment by coaches and staff working at the request and under the control and supervision of the Respondent Canada Artistic Swimming ("**CAS**").
2. CAS is a Federally funded, not-for-profit corporation and the national governing body for the sport of artistic swimming.
3. Respondent CAS, has a long and shameful history of failing to provide its athletes with a safe and respectful training environment. Indeed, as more fully detailed below, CAS has long ignored the psychological abuse, neglect and harassment of the athletes of its national team (the "**National Team**") at the hands of successive head coaches and other CAS staff members.

4. CAS operates its National Team training program at facilities located within the Institut national du sport du Québec ("**INS**") in Montreal. CAS is responsible for the National Team and, among other things, hires and supervises its coaches and other support staff for the training program.

5. The Petitioners were all between 17 and 24 years old when they were on the senior National Team. Some were chosen to compete and represent Canada at international competitions such as the Pan-American Games, World Championships and Olympic Games. Other National Team members trained as alternates in the hopes of being chosen to represent Canada at international events.

6. Like all National Team members from the last decade, the Petitioners were young women when they came from across Canada to Montreal to train under the care and control of CAS. In so doing, the Petitioners made artistic swimming the focal point of their lives. They sacrificed any chance of a normal social life and instead embraced early mornings, late evenings and exhaustion resulting from the excessive training regimen required by CAS coaching staff. The National Team's volume of training is unmatched in the amateur sports world, with a weekly routine that reached up to 50 hours over six days followed by a single day off. The athletes made these tremendous sacrifices not for financial gain (of which there is little in artistic swimming) but rather for the joy of sport and the hope of one day earning the chance to represent Canada on the world stage.

7. As the Federally funded national governing body for artistic swimming having power, control and discretion over the training and artistic swimming careers of the

members of the National Team, CAS owed a duty of care to these young women, including an obligation to protect their health and wellbeing. Indeed, athletes have the right to participate in sport in an environment that is safe, welcoming, inclusive, ethical, and respectful and protects participants' dignity, rights, and health.¹

8. CAS failed utterly in its obligations to the Petitioners and the other athletes on the National Team to provide an environment free of psychological abuse, neglect and harassment, where these young women could pursue their dreams of excellence at the highest level. Instead, CAS permitted its staff members to psychologically abuse, neglect and harass its National Team athletes time and time again. CAS's failure to meet its obligations to the athletes placed (and continues to place) them in an untenable position: either endure the psychological abuse, neglect and harassment or give up their dreams of representing Canada at the international level.

9. As set out below, the impact of this psychological abuse, neglect and harassment on the National Team members has been both serious and prolonged – it includes, among other things, physical injury, anxiety, depression and disordered eating, which continues to haunt these women for years following their retirement from the National Team.

10. CAS's legacy of psychological abuse, neglect and harassment continues to this day. It is facilitated by CAS's repeated failure to implement appropriate policies, violations of its policies, its reluctance and failure to investigate complaints properly and

¹ RED DEER DECLARATION – For the Prevention of Harassment, Abuse and Discrimination in Sport, February 2019 Available from » <https://scics.ca/en/product-produit/red-deer-declaration-for-the-prevention-of-harassment-abuse-and-discrimination-in-sport/>

take appropriate action in response to complaints, and its overall failure to initiate and foster cultural and institutional change to its toxic training environment and program.

11. CAS's continued disregard for the psychological and physical wellbeing of the National Team athletes recently resulted in the shut down in October 2020 of its Montreal training center to allow an independent review of the National Team training program following complaints from some athletes and external coaches of violations of CAS's Conduct Policy. The Canadian Broadcasting Corporation ("**CBC**") reported that one of the complaints that led to this shut down went so far as to denounce what was described as a "culture of fear and compliance" at CAS. The CBC further reported one external coach as saying, "I'm speaking now because it's enough, and because I'm exhausted and I'm heartbroken and I want better for them. And they deserve better," the whole as more fully appears from the copy of the article published cbc.ca dated October 1, 2020, communicated herewith as **Exhibit R-1**.

12. The independent reviewer engaged by CAS published a report dated October 26, 2020, entitled "Independent Safe Sport Review Report" (the "**Safe Sport Report**"), a copy of which is communicated herewith as **Exhibit R-2**. "Safe Sport" generally refers to a movement to eliminate sexual abuse, psychological abuse, physical abuse, neglect, bullying, and harassment from amateur sport, not only through education but also through the implementation of codes of conduct and effective reporting and disciplining mechanisms. It takes its name from the American *Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017*, which was enacted following the revelations of Dr. Larry Nassar's sexual abuse of gymnasts on the US Olympic gymnastics team. Safe Sport has since grown into an international movement covering

all amateur sport, the whole as more fully appears from a copy of the principles of SafeSport International and the relevant page of the Canadian Centre for Ethics in Sport, communicated herewith *en liasse* as **Exhibit R-3**. CAS purports to endorse these principles, as evidenced by the CAS Safe Sport web page, a copy of which is communicated herewith as **Exhibit R-4**.

13. The 2020 Safe Sport Report, and CAS's public reaction to same, is a devastating indictment of CAS. In the Safe Sport Report, the independent reviewer found that:

It became clear through the interview process that there is an overall lack of understanding of the CAS Conduct Policy (referred here as a Code of Conduct) and safe sport initiatives, including the process for filing complaints to the Independent Third Party Officer. [...] there is found to be experiences of psychological abuse, bullying, neglect, sexual harassment, discrimination, and an overall culture of fear. Sexual harassment in the form of misogynistic comments and behaviour, comments that were sexual in nature, and offensive comments was found to be the most prevalent of the above items, along with discrimination which took the form of racial comments, comments based on religious beliefs, and comments based on gender identity.

[Underlining and emphasis added.]

the whole as more fully appears from page 4 of the Safe Sport Report (Exhibit R-2).

14. The Safe Sport Report demonstrates that a significant percentage of the athletes on the National Team reported that there are serious problems with the training environment provided by CAS. More particularly:

- (a) **44%** of the athletes had experienced or witnessed **psychological abuse** by coaches, staff, or other athletes, including **intimidating, humiliating, threatening comments and repeated personal criticism.**

- (b) **39%** of the athletes had experienced or witnessed **bullying** by coaches, staff, or other athletes, including **name-calling and social exclusion**.
- (c) **44%** of the athletes had experienced or witnessed **sexual or other forms of harassment** by coaches, staff, or other athletes, including **misogynistic comments and behaviour, comments that are sexual in nature, and offensive comments**.
- (d) **50%** of the athletes had experienced or witnessed **discrimination** by coaches, staff, or other athletes, including **racial comments, comments based on religious beliefs, and comments based on gender identity**.
- (e) **50%** of the athletes had experienced or witnessed **neglect** by coaches, staff, or other athletes, including **ignoring injury or pain, withholding medical attention, and withholding nutrition**.
- (f) **44%** of the athletes had experienced or witnessed **other violations of the Code of Conduct** by Coaches, Staff, or other Athletes outside by coaches, staff, or other athletes, including in particular **failures to follow up on a concern or complaint submitted by an athlete**.
- (g) **56%** of the athletes felt **that there was a culture of fear within the organization**. The independent reviewer reported that the fear stemmed mainly from **potential retaliation** and the fact that some complaints and concerns were not addressed in an appropriate manner.

the whole as more fully appears from the Safe Sport Report (Exhibit R-2).

15. In contrast, 100% of CAS's coaches and integrated support team staff ("IST") reported that CAS had a strong Safe Sport program and felt support by CAS executives and the Board of CAS on any Safe Sport issues. Only 10% of the coaches and IST acknowledged that they felt a culture of fear within the organization, the whole as more fully appears from pages 15-16 of the Safe Sport Report (Exhibit R-2).

16. The independent reviewer was given no mandate to investigate these allegations, the whole as more fully appears from the Safe Sport Report (Exhibit R-2). Instead, CAS gave the mandate to investigate the Safe Sport formal complaints to another party.

17. In January 2021, CAS announced, without making any portion of the investigation or the report public, that there was "not see sufficient evidence to conclude there is an unsafe training environment in the senior national team program," the whole as more fully appears from the press release of CAS dated January 15, 2021 (the "**CAS Statement'**") communicated herewith as **Exhibit R-5**. The press release went on to add :

While the investigator found that there was insufficient evidence to conclude there is an unsafe training environment in the senior national team program, there was enough evidence in support of several allegations made against one individual to proceed to a disciplinary process.

The discipline process will determine if there was a contravention of the CAS Conduct Policy and, if so, the appropriate sanction, if any. When this process is complete, CAS will communicate any decisions or sanctions that are made at that time. However, at this time, CAS will not comment further on the ongoing process.

[Underlining and emphasis added.]

18. While CAS posted both the full Safe Sport Report (Exhibit R-2) and the CAS Statement (Exhibit R-5) for a brief period on the Safe Sport page of its website, both have since been taken down and are no longer available on CAS's website.

19. With this information, CAS then made no staffing changes. Instead, CAS recklessly and improperly proceeded on the basis that an internal sensitivity training program would fix the toxic culture it had permitted to exist for over a decade. Compounding CAS's significant failure to act appropriately in response to the Safe Sport Report, CAS also allowed the current Head Coach Gábor Szauder ("**Szauder**") to return to coaching the National Team effective January 18, 2021. This decision was consistent with the attitude of CAS and its leadership, which is to deny that psychological abuse, harassment and neglect have no place in sport and are serious issues that cause lasting harm. Indeed, current CAS CEO Jackie Buckingham ("**Buckingham**") was reported as stating the following in response to the revelations of the Safe Sport Report (Exhibit R-2):

Rien de flagrant n'a été signalé par les athlètes. Donc pas d'abus sexuel, pas d'abus physique, pas de bizutage de nos nouveaux athlètes qui sont arrivés au centre en septembre. Cela nous a donné une grande confiance. Le rapport a souligné qu'il y avait d'autres problèmes liés au harcèlement, à la discrimination de même que certains problèmes qui ont été identifiés comme de la négligence. Nous en avons donc discuté tout au long du processus d'examen.

[Underlining and emphasis added.]

the whole as more fully appears from the copy of the article from ici-radiocanada.ca dated November 2, 2020, communicated herewith as **Exhibit R-6**.

20. CAS's denial of the seriousness of the issues raised by athletes and reflected in the Safe Sport Report was predictable. On October 1, 2020, before the Safe Sport

Report was issued, Buckingham was reported as saying: "Our people are not being investigated. Our issues are being investigated... We believe 100 percent in the talent and competence of our coaches and our support team," the whole as more fully appears from the copy of the article from cbc.ca dated October 1, 2020 (Exhibit R-1).

21. Despite the damning conclusions of the Safe Sport Report, CAS permitted the very same leadership and coaching staff, including Szauder, to remain in charge and control over the very athletes who had complained about their conduct. CAS thus failed (once again) to protect the athletes who have entrusted CAS with their training, mental and physical wellbeing and careers.

22. CAS's conduct in this instance should not be surprising. For more than a decade, CAS has failed to foster a safe, respectful environment, free of psychological abuse, neglect and harassment. CAS has allowed, as it continues to allow, its athletes to suffer harm at the hands of the very professionals to whom these young women have entrusted their training and artistic swimming careers, resulting in lasting physical and psychological harm to National Team members. Under the leadership of Head Coaches Julie Sauvé (2009-2012), Meng Chen (2012-2017), Leslie Sproule (2017-2018), and Gábor Szauder (2018-current), the unsafe training environment consistently included a combination of the following:

- (a) **psychological abuse**, including repeated personal criticisms, criticisms of a person's body (body-shaming), intimidating, humiliating, degrading or threatening comments and deliberate denial of attention and support;

- (b) **neglect**, through failing to provide reasonable care and attention to athlete's needs and wellbeing. This includes denying adequate nutrition, withholding medical attention, inadequate supervision, ignoring an injury or athlete's report of pain, knowing about psychological abuse and harassment and failing to report; and
- (c) **harassment**, including sexual and racial comments that were insulting, humiliating, malicious, discriminatory, misogynist and offensive.

23. These problems were known, or ought to have been known, to CAS staff and members of CAS's Board of Directors (the "**Board**").

24. The Petitioners are former artistic swimmers and were members of the National Team at different times from 2010 to 2020. Like so many of their senior teammates and the members of the junior and 13-15 Canadian national artistic swimming teams, they suffered both mental and physical injuries while in Montreal training under the care and control of CAS. The consequences of the psychological abuse, neglect and harassment these young girls and women have experienced continue to adversely impact their lives and relationships for years following their retirement from the National Team.

25. The Petitioners assert that it is time for meaningful change. It is time to begin a new chapter in artistic swimming in Canada. It is time that the physical and psychological health of CAS athletes is no longer subordinated to performance.

26. The culture and conduct of CAS cannot be permitted to continue.

27. In light of CAS's continuous refusal to comply with its legal obligations and its refusal to acknowledge the harm being done through the psychological abuse, neglect and harassment inflicted by its personnel, on behalf of the following class of persons:

"All individuals who trained with the national swimming teams of Canada Artistic Swimming who were subjected to psychological abuse, neglect and harassment by coaches and staff of Canada Artistic Swimming between January 1, 2010, and March 8, 2021."

"Toutes les personnes qui se sont entraînées avec les équipes nationales de Natation artistique Canada et qui ont été victimes d'abus, de négligence et de harcèlement psychologique de la part des entraîneurs et du personnel de Natation artistique Canada entre le 1er janvier 2010 et le 8 mars 2021."

(the "**Class**")

the Petitioners hereby seek an order compelling and directing CAS to implement, apply and follow appropriate governance procedures for a national sport governing body so that the physical and psychological health of CAS athletes is both protected and no longer subordinated to performance and to recover damages for CAS's failure to abide by its duty of care and its violation of their rights under the *Quebec Charter of Human Rights and Freedoms*.

II. THE PARTIES

A. PETITIONERS

28. The Petitioners are former members of the CAS National Team (the "**National Team**"):

- (a) **Erin Willson ("Willson")** was a member of the National Team from 2007 to 2013. She trained under three CAS head coaches, the last two of

whom were Julie Sauvé ("**Sauvé**," 2009-2012) and Meng Chen ("**Chen**," from 2012-2013).

- (b) **Chloé Isaac ("Isaac")** was a member of the National Team from 2008 to 2014. She trained under three CAS head coaches, the last two of whom were Sauvé (from 2009-2012) and Chen (from 2012-2013).
- (c) **Gabriella Brisson ("Brisson")** was a member of the National Team from 2012 to 2018. Brisson trained under two head coaches, Chen (2012-2017) and Leslie Sproule ("**Sproule**," from 2017 to 2018).
- (d) **Gabrielle Boisvert ("Boisvert")** was a member of the National Team from 2015 to 2018. She trained under two CAS head coaches, Chen (from 2015-2017) and Sproule (from 2017 to 2018).
- (e) **Sion Ormond ("Ormond")** was a member of the National Team from 2018 to 2020. She trained under two head coaches, Sproule (2018) and Szauder (2019-2020).

B. THE RESPONDENT

29. CAS is a not-for-profit corporation established under the Canada Not-for-Profit Act, SC 2009, c. 23 (the "**NFP Act**"), with a head office in Ottawa, Ontario, the whole as more fully appears from the report of the Canadian federal corporate database communicated herewith as **Exhibit R-7**.

30. On August 21, 2018, CAS announced that it was rebranding itself from "Synchro Canada" to "Canada Artistic Swimming." At the time, the CAS press release quoted

CAS CEO Buckingham as saying, “Our new Brand Essence – “Forging unity through diversity” and our key attributes: powerful, creative, dynamic, inclusive and collaborative, define us – and frame the identity of an aligned and focused organization as we move forward,” the whole as more fully appears from the Press Release of that date communicated herewith as **Exhibit R-8**.

31. Since at least January 2010, CAS has administered and continues to administer all training for the National Team at the INS in Montreal, Quebec, and select international sites for short-term training camps and competitions.

III. THE INDIVIDUAL CLAIMS OF PETITIONERS

A. ERIN WILLSON AND CHLOÉ ISAAC

32. Willson and Isaac both swam with the National Team under three head coaches, including Sauvé and Chen.

33. Under Sauvé’s coaching, Willson and Isaac and their teammates were subjected to years of Sauvé’s psychological abuse, neglect and harassment, the whole with the knowledge and complicity of CAS.

34. In an elite-level sport, it is normal and expected that the coaches and staff would be concerned with the weight of the athletes as part of their overall fitness. It is furthermore normal to have weight goals that are commensurate with the athletes’ body composition and type. What was not normal but abusive was Sauvé’s obsession with the appearance of the National Team athletes and the need for them to lose excessive

weight to meet her warped, impractical and unhealthy ideal of the perfect artistic swimmer.

35. Sauvé regularly made negative comments about the athletes' bodies. For example, Sauvé told Isaac that she was "too muscular" and "too fat" and commented on the size of Isaac's legs, which Sauvé deemed too large. Similarly, Sauvé told Willson that her breasts were "too big" for artistic swimming and would make humiliating comments about Willson's breasts in front of the team. Sauvé inflicted similar body-shaming comments on other teammates.

36. Sauvé engendered a culture of fear around weight and its connection to athletes' continued place on the National Team. When they began their tenure with the National Team, Isaac and Willson and their teammates would be weighed with the other members of the team about once every two weeks. However, by 2010, Sauvé forced athletes on the team to be weighed (often by other CAS staff that she would use as her proxies) at least once or twice a week and twice daily (morning and night) during training camps and competitions. Sauvé instituted a "three-strike rule," which meant that if athletes weighed in over the goal weight she had set for them more than three times, CAS would remove them from the National Team. As an example, Willson received several letters warning her that she was over her target weight, including one that was issued to her on April 21, 2011, the day after she had agreed to lower her target competition weight in the hopes of being allowed to swim in competition with the National Team, communicated herewith with other correspondence *en liasse* as **Exhibit R-9**.

37. All the athletes knew that a position on the competition team was never safe and that complying with Sauv  s unhealthy weight targets, which often went beyond their already aggressive contract weights, was essential to keeping their place on the National Team and to earning the right to be allowed to compete at the international level.

38. As a result, to prepare for weigh-ins, Isaac, Willson, and other athletes strictly limited their food and water intake to the significant detriment of their health and training performance. For example, as there was usually a weigh-in on Mondays, Isaac and the other athletes would not eat very much on Sundays. They would also not eat breakfast or drink water before arriving for practice on Monday morning. They would then (before being allowed to eat lunch) train in the pool for hours. Not only did this undermine their performance, but it was extremely dangerous for the athletes. Training without proper hydration without food to fuel the amount of energy being expended may lead to Relative Energy Deficiency in Sports (RED-S). RED-S is a serious illness with lifelong health consequences. Some of the more common effects of RED-S are amenorrhoea and decreased bone mineral density (osteoporosis and osteopenia).

39. Sauv   would watch and continuously comment on what and how much the athletes were eating. When an athlete met Sauv  s unreasonable weight requirements, she praised both the athletes' frame, appearance and performance. Conversely, athletes like Willson and Isaac, who did not look how Sauv   believed an artistic swimmer should look and did not meet the goal weight that she set for them, were verbally harassed and shamed by Sauv   in front of their teammates.

40. Sauvé's preoccupation with the appearance of the athletes on the National Team included physical abuse. For example:

- (a) The athletes that did not meet Sauvé's standards for bodyweight were punished with exercise for being deemed too fat and required to run after the usual training day; and
- (b) Sauvé forced the athletes to train outside in the sun for hours without suntan lotion so that they would look tanned. Unprotected sun exposure is a well-documented cause of skin cancer. Many suffered repeated painful sunburns. Sauvé would verbally harass and berate any athlete who put on sunscreen.

41. Thus, beginning in 2010, Isaac and Willson, like many of their teammates, began to obsess over counting calories and to do everything and anything they could to lose more weight.

42. In 2011, Willson sought help from the nutritionist and sports psychologist hired by CAS to support the National Team. Willson explained that while she ate very little, she was not losing any more weight. Willson told them that she was feeling overwhelmed, distressed and anxious about her weight. She begged for help to get below the goal weight set for her, which she had been unable to achieve. When she could not meet those goals, CAS and Sauvé moved Willson to the "B" team (which competed only at smaller competitions) and told her that when she demonstrated better "spirit" and met her weight goals, Willson might be allowed back on the competition team. Desperate, isolated from friends and family, Willson turned to disordered eating behaviours,

including extreme dieting and food restriction, as well as excessive exercise after normal training hours.

43. Isaac also turned to disordered eating behaviours after also being unable to reach the arbitrary and unhealthy goal weight set by CAS coaches. This included bingeing, purging, and starving herself. She was terrified that all she had earned through the hard work and years she had dedicated to artistic swimming would vanish the second she put her foot on the scale. Isaac was distraught and desperate.

44. Isaac and Willson were hardly the only athletes on the National Team to develop problems while training with Sauv  . Disordered eating, anxiety and depression were common among the athletes and an open secret with coaches and staff at CAS. Sauv   made sure the athletes on the National Team understood that how thin they were was at least as important to her and their place on the team as how they performed in the pool.

45. Adding to the pressure on the athletes was Sauv  's constant reminders of the money invested in the National Team. These reminders made the athletes feel even more pressure and shame when they failed to meet Sauv  's demands, including her weight requirements. These reminders were also an implicit threat to Willson, as the agreement signed by members of the National Team going to the 2012 Olympics with CAS (then known as Synchro Canada) stated:

Upon selection to the 2012 Olympic Athlete Pool, I
(the athlete) agree to the
following conditions:

a) To train with the 2012 Olympic Athlete Pool from November 1, 2011, until July 31, 2012 and, if selected to the 2012 Olympic Team, participate in the 2012 Olympic Games.

b) If not selected to the 2012 Olympic Team, I will continue to train with Synchro Canada's Centre of Excellence National Team program until after the 2013 FINA World Aquatic Championships.

c) If am in breach of this agreement, I agree to refund Synchro Canada for the financial investment they have made towards my training and competition experience from November 1, 2011, until the day the agreement is breached. I understand that Synchro Canada's financial investment towards me includes but is not limited to the following costs: facility rental, coach salaries, expert service fees, and travel. I also understand that Synchro Canada will charge me for my share of these costs pro-rated to the day I breach this agreement.

[Underlining added.]

the whole as more fully appears from the Post 2012 Olympic Athlete Agreement, revised May 20, 2011, communicated herewith as **Exhibit R-10**.

46. Thus, Willson (who knew she would be one of the alternates, not selected to the 2012 Olympic Team) was forced to undertake to stay and continue to train with the National Team until after the following year's World Championships or be obliged to pay CAS a significant amount as compensation. This was a serious concern to Willson, a young woman who had put her education on hold to train with the National Team. It left her and the other alternates even more vulnerable to abusive behaviours from the coaches and CAS.

47. In the months leading up to the 2012 London Olympics, Sauvé's behaviour grew even more verbally abusive. Sauvé screamed, criticized, and made humiliating, degrading and threatening comments regularly towards the athletes on the National Team. To support her daughter, Willson's mother complained to CAS's leadership, but CAS dismissed her concerns, the whole as more fully appears from the letter of Karen

Willson dated February 12, 2012, communicated herewith as **Exhibit R-11**. In its response, CAS largely dismissed Ms. Willson's concerns and justified Sauvé's demands on weight loss and excessive sun tanning as necessary for "visual" aspects of the sport, the whole as more fully appear from the letter from then CAS CEO, Catherine Gosselin-Després, dated March 9, 2012, communicated herewith as **Exhibit R-12**.

48. In the weeks leading up to the 2012 Olympics, the athletes also reached out to CAS leadership for help. On a conference call with the CAS Board of Directors, the National Team athletes begged the CAS Board to remove or otherwise address Sauvé's behaviour. Each team member took the time to explain their concerns about Sauvé and why they found the prospect of spending six weeks alone with her at the next training camp upsetting, stressful and scary. Despite the team's specific, direct and unequivocal complaints, the CAS Board members refused to take any action other than to put another CAS staff member on deck with Sauvé purportedly to supervise her during the training camp. This measure had little impact, and Sauvé's abusive behaviour continued unabated. Parents also complained, but their cries for help continued to fall on deaf ears at CAS. In June 2012, weeks before the start of the Olympic games that were set to begin in London on July 27, 2012, Isaac and Willson's parents, among others, reached out to CAS, including the president of CAS's Board of Directors, asking CAS to do something to protect the athletes from Sauvé's abuse:

As we discussed in the conference call in March, it was agreed that someone needed to monitor Julie's behaviour every moment during the last training came. I understood that the girls were forced to swim in the outdoor pool in the pouring rain, in 60 degree temperatures, for extended periods of time. At one point, Beadreau had to be lifted from the pool by the girls and carried to the showers because her back muscles had completely seized.

There was no oversight by the coaches as the girls poured warm water on her until she could walk. Has all of this been forgotten?? Are there no steps for corrective action?

Is the Board of Directors aware of the girls current concerns?

[...]

[Underlining and emphasis added.]

the whole as more fully appears from the email of June 1, 2012 from Karen Willson to then CAS CEO Gosselin-Despres communicated herewith as **Exhibit R-13**. Gosselin-Despres acknowledged receipt of Karen Willson's email (see Exhibit R-13), but provided no substantive response.

49. Following the 2012 London Olympics, Willson was placed on medical leave by the Chief Medical Officer for the Canadian Olympic team, who diagnosed Willson with anxiety, depression, eating disorder, sleep disorder and post-traumatic stress disorder. While the leave was supposed to be for six months, after three months, Chen (who had taken over as Head Coach) advised Willson that she needed to return to training if she wanted to go to the 2013 World Championships. Willson thus returned to train with the National Team in Montreal. Within days of her arrival, however, Chen told Willson that she needed to lose weight and "look like an athlete" again. Shortly after that, Willson retired from the National Team in 2013 at the age of 24.

50. Today, eight years after her retirement, Willson still has difficulty speaking about her time on the National Team. She continues to see a psychologist periodically and still suffers from post-traumatic stress disorder and disordered eating. It has taken Willson many years of therapy, as well as study (she is currently pursuing a doctorate at the University of Toronto with the Faculty of Kinesiology and Physical Education, where she

focuses her research on abuse in sport), to come to understand how she was maltreated by CAS and that she was not responsible for this maltreatment. To date, Willson has spent approximately \$2,000 on various therapists and professionals and expects to continue with her treatments for an indefinite period. Willson spent approximately six years on the National Team suffering psychological abuse, neglect and harassment and seeks moral damages in the amount of \$75,000.

51. For Isaac, ultimately, the antidepressants that CAS medical personnel had prescribed did little to help with her depression, anxiety, and disordered eating. When Isaac announced her retirement from the National Team in 2014, CAS offered her the opportunity to send out her last words to the artistic swimming community in the CAS newsletter. She wrote a letter about her positive experiences, but also her disappointments in the sport. CAS CEO Buckingham effectively suppressed Isaac's effort and told Isaac that CAS would not publish her letter. Buckingham said that it was not a place for Isaac to discuss what had disappointed or discouraged her, the whole as more fully appears from the email exchange communicated herewith as **Exhibit R-14**.

52. Isaac stopped taking antidepressants when she retired from the National Team but continued to see a therapist and other professionals periodically in the years following her retirement. Some of this therapy was paid for by the INS, although much of it was paid for by Isaac. It was only in May 2018 that Isaac sought regular support, in this instance from a nutritionist, to deal with her eating disorders. It is only recently that she has not demonstrated disordered eating patterns. Isaac has spent approximately \$5,000 on expenses relating to struggle with disordered eating, including various therapists and professionals with whom she expects to continue treatment for an

indefinite period. Isaac spent approximately five years on the National Team suffering psychological abuse, neglect and harassment and seeks moral damages in the amount of \$62,500.

53. It has taken Isaac years to be able to process and understand the psychological harm that was inflicted upon her while she was training with the National Team. Even today, Isaac continues to have nightmares about Sauvé at least once a month.

B. GABRIELLA BRISSON, GABRIELLE BOISVERT AND SION ORMOND

54. As described above, individual CAS staff and Board members were aware of the toxic environment at CAS under Sauvé. The National Team's courage to demand change before the 2012 Olympics was an opportunity for CAS to facilitate cultural change within the organization to ensure that its National Team would no longer be subject to psychological abuse, neglect and harassment.

55. CAS failed to respond to the serious concerns raised by the National Team. Not only did CAS fail to replace Sauvé immediately, but when Sauvé finally did leave the National Team, CAS never alluded to any maltreatment. In fact, when CAS announced the replacement of Sauvé, it extolled Sauvé and her coaching. CAS also instructed the athletes as to what they were to say in response to media queries about Sauvé's departure, telling them that they should say that her departure was an "administrative" decision taken by CAS, the whole as more fully appears from an internal exchange of emails at CAS as well as from a press release dated October 2, 2012, communicated herewith as **Exhibit R-15**, *en liasse*.

56. CAS replaced Sauv  with Meng Chen, who had been an assistant coach under Sauv . Chen learned under Sauv  and, predictably, continued the abusive practices of her predecessor.

57. Brisson arrived in 2012 and began her training with the National Team just as Chen was taking on Head Coach duties. Boisvert joined the team a few years later, in 2015.

58. As head coach, Chen continued the psychological abuse practiced by Sauv  by subjecting Brisson, Boisvert, and the other members of the National Team to repeated personal criticism and degrading comments about their bodies and abilities, commitment and performance. Chen would scream at athletes until they broke down and cried in front of her and the team. On other days, Chen would express her displeasure by refusing to speak to athletes as punishment for having displeased her. She ignored the training of Boisvert and other of the National Team athletes entirely when they had not been selected for a competition team.

59. Chen continued Sauv 's pattern of demanding that the athletes reach unrealistic and unhealthy weight goals. The thinnest among these women, many of whom were battling eating disorders, were often extolled by Chen in front of the entire National Team as what an "elite" or "high-performance" swimmer should look like. Chen told the athletes that their weight was holding back their performance. For example, Chen told Brisson that she would be able to get further height out of the water if only she lost belly fat. As a result, many National Team members struggled with the weight requirements, and some escalated to disordered eating as a means of coping with the pressure.

60. Chen's abusive conduct occasionally extended to physical abuse. For example:

- (a) When Brisson was struggling with the full extension of her ankles and knees, once Chen made Brisson sit on the ground with her legs straight out in front of her so that Chen could stand with her full weight on Brisson, with one foot placed above Brisson's knee cap and the other foot on the top of Brisson's foot. While Chen laughed and acted like she was riding a surfboard, Brisson was in so much pain that she thought that her ankles would break.
- (b) During one period, Chen decided the athletes on the National Team were insufficiently flexible. Chen forced athletes, including Boisvert, to begin their training days by doing two minutes of splits up on blocks, with insufficient time to warm up. This was both extremely painful and put the athletes at risk of serious injury.
- (c) Chen otherwise used exercise as punishment. Chen set up extra hours of intense cardio training for athletes like Brisson as part of her weight loss mandate, which she imposed on them on top of an already gruelling training schedule. In other instances, Chen stopped athletes in the middle of the training to single out one who she said was not doing a skill correctly. Chen would then stop the training and force the one swimmer to repeat the skill over and over and over, while the rest of the National Team was forced to watch. During these sessions, Chen offered no feedback to the athlete purportedly being corrected that would allow her

to correct what had supposedly been done wrong. Chen simply ordered the National Team member to repeat the skill, again and again, often until the athlete was completely exhausted or in excruciating pain.

There were many moments like this when Chen pushed and exceeded the limits of the National Team's athletes' safety.

61. Occasionally, CAS would send in external professionals purportedly to help the National Team in various ways. For example, while Chen was Head Coach, several external sports psychologists and a communications expert came on separate occasions to meet the athletes. During these meetings with the CAS consultants, the National Team shared their concerns about Chen's abusive conduct and the impact of their training. However, these consultants were rarely, if ever, invited back after their first session to meet the National Team. Furthermore, there was never any follow-up by CAS on any of the National Team's concerns.

62. Chen also neglected athletes' health and safety by forcing National Team athletes to train unsafely, requiring that they do complicated and dangerous routines, patterns and movements for which they were improperly prepared. In artistic swimming, the swimmers move very quickly and swim very close to each other during their routine. Unless they are adequately prepared and practiced, it is easy for one swimmer to get kicked or hit and seriously injured. As a result of Chen's negligence, numerous team members sustained physical injuries, including serious concussions. Chen would also question athletes' injuries and illnesses, accuse them of faking and often force an

athlete to train, even when Chen was told the athlete did not feel capable because of an injury or because she was ill.

63. Boisvert suffered a concussion in March 2017 when she was kicked in the head while training under Chen before the 2017 World Championships in Hungary. Boisvert's injury was followed by five other athletes who all suffered concussions in quick succession in the next few weeks. These injuries were all caused by Chen's negligence. Chen quite simply showed no concern about the athletes' health and safety in the pool. Although the rising number of concussions and other injuries should have alarmed CAS, CAS failed to respond to either the injuries or the concerns the athletes expressed about Chen's dangerous coaching style.

64. In May 2017, only seven out of the twelve athletes on the competition team of the National Team felt healthy enough to compete. This finally brought the members of the National Team to a breaking point. The members of the National Team requested a meeting with CAS Chief Sport Officer Julie Healy ("**Healy**"), the manager of the National Team and Chen to find a way to move forward and train safely. However, the meeting quickly spiralled out of control when Chen began screaming at the athletes, attacking individual athletes and accusing them of being responsible for the team's training going poorly. After several minutes of her screaming at the National Team, CAS staff finally decided to intervene and had to physically pull Chen out of the room while she screamed at the athletes and refused to cease her verbal abuse.

65. Chen's erratic and abusive conduct during the meeting caused a significant amount of stress and anxiety for the athletes, like Brisson and Boisvert, who were

present. CAS's response to witnessing Chen's unhinged and abusive behaviour, however, was only to suspend training for a few days over the weekend.

66. When the National Team returned to the INS training facility in Montreal the following Monday, they found that CAS had left Chen in her role as Head Coach and expected the National Team to continue their training with her. As a result, the competition team members banded together and took the extraordinary action of refusing to train with Chen even though the World Championships were only a few weeks away. CAS was then finally forced to take some action and removed Chen from her position as Head Coach. Publicly, CAS failed or refused to acknowledge the abusive conduct of Chen, instead positioning her departure as a personal leave of absence.

67. Brisson and Boisvert hoped that by standing up to Chen and CAS and demanding change, they would ensure that CAS would no longer allow National Team swimmers to be abused, neglected or harassed. Regrettably, the new Head Coach hired by CAS, Leslie Sproule, continued the culture of abuse and harassment.

68. When Sproule arrived as acting Head Coach in June 2017, several athletes from the National Team, including Boisvert, were still recovering from the concussions they had suffered training with Chen. Notwithstanding their injuries, their continued concussions symptoms and the medical advice given to the athletes, Sproule forced them to begin training again in preparation for the 2017 World Championships in Hungary in July. Sproule also continued the practice of neglecting athletes' health and safety by requiring athletes to perform complicated and dangerous routines, patterns

and movements for which they were improperly trained and prepared. Often Sproule would, it seemed deliberately, give new directions with little explanations or warning. She would ignore or refuse to answer athletes' questions. As a result, the neglect of the National Team's safety continued.

69. In 2017, Brisson suffered a concussion the week before the National Team's competition team flew to Hungary for the World Championships set for July 2017. When she learned of Brisson's injury, Sproule told her if Brisson did not compete in Hungary, the entire National Team would stay home. Not wanting to be responsible for her team (of which she was then captain) being unable to compete, Brisson struggled to accelerate her recovery, putting her health at further risk. To Brisson, it seemed that Sproule did not understand (or believe in) the seriousness of a concussion. Sproule refused to abide by the medical advice that was provided by Brisson's doctors. Brisson struggled to satisfy Sproule's demands while adhering to a semblance of her prescribed concussion protocol. Eventually, Brisson's symptoms (including disorientation in the water) became too severe for her to compete.

70. After the first few months of training with Sproule, the National Team asked for an opportunity to evaluate her coaching before she was officially hired as the new CAS Head Coach to replace Chen. This was allowed by CAS, and many, including Brisson and Boisvert, included in their evaluations serious concerns about Sproule's psychological abuse, neglect and harassment of athletes. Consistent with its repeated and systemic failure to adhere to its obligations as the national governing body for Artistic Swimming, CAS ignored the athlete's concerns and announced that Sproule had been hired to be the new Head Coach to replace Chen on November 2, 2017, the whole

as more fully appears from the CAS press release of that date communicated herewith as **Exhibit R-16**.

71. Brisson never again competed with the National Team after the 2017 World Championships and retired in January 2018. Brisson has never fully recovered from her concussion and still experiences headaches, fatigue, eye strain and reduced concentration. These symptoms were so severe that she was forced to drop out of University. In addition, during her years on the National Team, Brisson suffered panic attacks, which she reported to the National Team's sport psychologist. When she first left the National Team, Brisson's panic attacks abated. However, they resurfaced during her retirement and continue today. Brisson also continues to struggle with her body image and anxiety. Brisson attended therapy with a counsellor for the first time in March 2020 but did not continue after the beginning of the COVID-19 pandemic. Brisson has incurred a loss of approximately \$300 to date for costs related to being forced to drop out of school, and the various therapists and professionals and Brisson expects to continue her treatments for an indefinite period. Brisson spent approximately six years on the National Team suffering psychological abuse, neglect and harassment and seeks moral damages in the amount of \$75,000.

72. In January 2018, Ormond began training as a member of the National Team.

73. After she was officially hired as Head Coach, Sproule continued her abusive coaching style and neglect of the athletes' safety as described above. Indeed, by hiring her in the face of athletes directly raising the abuse they suffered under Sproule, the

CAS validated and confirmed to Sproule that her conduct was acceptable to it as an organization.

74. Desperate, National Team members reached out to CAS leadership for help with a letter dated April 16, 2018:

On behalf of the Members of the Canadian National Team, we are writing to you, to express our concern for how the National team camp unfolded from March 27-31. We would like to address how the behaviours that were exhibited by Leslie during the last camp left us feeling a lack a physical and emotional security while being coached by her. Throughout the entirety of the camp, members of the team were expressing their physical and psychological discomfort. Whether it was a safety concern, or an overall lack of regard for how the team was feeling, we as a collective felt like our opinions and concerns were not being heard and respected by Leslie. We believe for Team Canada to be able to attain podium level performances, that Canadian athletes need to be training in an environment that leaves everyone feeling safe and comfortable.

[...]

On Thursday, March 29 An athlete was throwing up on the side of the pool, Leslie laughed at this and continued to correct her and the team while she was vomiting. This demonstrated a lack of regard for the wellbeing of the athlete. Directly before this, another athlete had received a kick to the head and the Athletic Therapist (Emily) diagnosed her with minor whiplash. She was instructed by the Athletic Therapist to use her discretion when swimming, and if the pain started to increase she should reduce the range of motion, or take small breaks to allow the muscle to stop spasming. On Friday, March 29, The athlete and the Athletic Therapist went to talk to Leslie to inform her of the situation. Leslie remained silent and vague in her responses, leaving the athlete feeling unsure if Leslie understood the severity of the situation. It is extremely important for an athlete to not be afraid to address their concerns about an injury to their coach and know that they have been heard. As it is a safety concern if athletes feel like they are unable to tell the coach the full truth about serious injuries.

[...]

Our concern as athletes is that this type of behaviour demonstrated by our current Head Coach, more so on the day that she was not supervised by Synchron Canada staff members,

has been seen in the past, and is creating anxiety amongst the team going forward into the May camp. We have expressed these concerns before in our camp evaluations with Synchro Canada. Yet we are seeing similar patterns of mistreatment and abuse towards the athletes camp after camp. We as a team do not feel comfortable with the behaviour that is being exhibited and for the safety of the athletes will not continue to deal with it going forward. There has to be a change in her behaviour and she needs to be under supervision.

[Underlining and emphasis added.]

the whole as more fully appears from a copy of the letter that was signed by both Ormond and Boisvert, among others, communicated herewith as **Exhibit R-17**. The athletes concluded their letter asking CAS to ensure that Sproule changed her behaviour and was put under supervision for the next training camp in Calgary scheduled for May 2018.

75. Following this letter, CAS set up a meeting for the National Team with Judi Enns Bradette ("**Enns Bradette**", President and Chair of the Board of CAS) and Sproule. Boisvert and Ormond left the meeting feeling like CAS believed that it was the fault of the athletes that the training program was not working well and that CAS was not going to make any significant changes.

76. CAS again demonstrated that it was unwilling to change and took no corrective action. More serious injuries resulted. At the May training camp referred to by the National Team members in their letter of April 16, 2018 (Exhibit R-17), Boisvert was kicked in the head so forcefully that her goggles split in two and cut her eye. Boisvert immediately began showing symptoms of a severe concussion. However, Sproule insisted that Boisvert spend the rest of the day at the side of the pool and repeatedly asked if Boisvert was "fine" yet and ready to train.

77. When Boisvert was unable to resume training because her symptoms (including migraines and vomiting) were too severe, Sproule told Boisvert that she would be removed from the competition team unless she recovered fully in five days. Boisvert could not recover that quickly and thus made the heartbreaking decision to return home. Shortly after leaving the training camp, Boisvert wrote CAS CSO Healy and the IST Manager Jennifer Langlois explaining what had happened and how Sproule had neglected her concussion, the whole as more fully appears from the email of May 17, 2018, communicated herewith as **Exhibit R-18**. In her message, after giving a detailed description of what happened, Boisvert said:

When I look back to the past week, I felt that it was hard for me to recover because I was **emotionally exhausted** by all of this. I felt **rush to get better and unrespected** when I was on the side of the pool. I think that the protocol exist for a reason and in this case, there was a lack of understanding. It was really frustrating for me to know that **the coaches didn't believe in the protocol and/or in the AT**. It was hard to explained myself everytime that I wasn't able to complete a stage or that I was send home because I had symptoms. Looking back, I feel it's harder because **we were in the same situation last year before World championship and that it's exactly the same this year**.

[Underlining and emphasis added. Syntax errors in original.]

78. Healy responded only to say that Sproule denied what Boisvert reported. CAS took no action, again disregarding the abuse and injuries suffered by its athletes, the whole as more fully appears from the chain of correspondence (Exhibit R-18).

79. Boisvert spent months at home working on recovering from what proved to be a severe concussion. In early 2019, Boisvert decided that her health would not allow her to continue on the National Team and she retired. Boisvert resent the same message again to Healy. However, this time she also copied CAS CEO Buckingham and Enns

Bradette, the whole as more fully appears from the email of February 22, 2019 communicated as part of the chain in Exhibit R-18 and the letter of the same date in which Boisvert wrote:

[...]

Finally, I think that the relationship between the coaches and the athletes need to improve. During my 4 years on the national team, my main concern was the fear that was instilled on the side of the pool by the coach and as mentioned earlier, the coach made me feel like I was nothing. Because of this, I was scared to talk and to express myself especially because the coaches were making sure that we know that our spot isn't guaranteed at all and that they are in a position of authority. I felt like I wasn't a human being anymore and just an object. I've been through a lot of coaches in my artistic swimming career, but the ones that I've had on the national team weren't bad technically speaking but were heartless. [...]

[Underlining and emphasis added. Syntax errors in original.]

the whole as more fully appears from page 2 of the letter communicated herewith with the cover email exchange *en liasse* as **Exhibit R-19**.

80. Following her letter, Boisvert received a brief email reply from CAS CEO Buckingham stating, "We are a few people and there is much work to do and sometimes it probably looks like we treat athletes "as a group" and not as individuals with individual needs and concerns as we work very hard to get everything done. I am truly sorry for this – it is not intentional. [...]", the whole as more fully appears from the email of February 22, 2019, communicated as part of Exhibit R-19. Enns Bradette (President and Chair of the Board of CAS) wrote Boisvert back a few days later, asking for a telephone call with Boisvert, the whole as more fully appears from the email of March 1, 2020 (Exhibit R-19). This call took place shortly thereafter, and Boisvert felt pleased about how it went. She felt that Enns Bradette had listened. Boisvert was

hopeful that her speaking out would make a difference and improve the training conditions for future National Team athletes.

81. Over the ensuing years, Boisvert has seen doctors, as well as other professionals, including a neuropsychologist and a psychologist. Without any assistance from CAS, she had to identify all these medical professionals on her own. Boisvert continues to suffer from regular migraines, nausea and reduced concentration and for which she receives accommodations (extra time for exams) in school. She struggles with anxiety and body image and only recently managed to gain enough weight to be considered "healthy" by her doctor. Since December 2019, Boisvert has been seeing a psychologist regularly to help deal with these issues. Boisvert has spent approximately \$2,000 on various therapists and professionals and expects to continue her treatments for an indefinite period. Boisvert spent approximately four years on the National Team suffering psychological abuse, neglect and harassment and seeks moral damages in the amount of \$50,000.

82. In late 2018, CAS finally replaced Sproule with a new Head Coach, Gábor Szauder, the whole as more fully appears from the press release dated November 13, 2018, communicated herewith as **Exhibit R-20**.

83. Ormond continued her training with the National Team following Sproule's departure.

84. Soon after Szauder took his place as Head Coach on the pool deck at INS in Montreal, it became clear that CAS would yet again allow the National Team to be subjected to various forms of psychological abuse, neglect and harassment, now at the

hands of Szauder. In fact, It is not clear what, if any, due diligence CAS performed on Szauder before he was hired as Head Coach. A news report published in Slovakia indicates that he had previously been subject to serious complaints of psychological abuse and sexual harassment, the whole as more fully appears from the news article dated November 5, 2020, from a Slovakian newspaper and the Google translation of same communicated herewith *en liasse* as **Exhibit R-21**.

85. As Head Coach of the National Team, Szauder has harassed athletes, including through the use of racial and gender-discriminatory language. This created a disrespectful and unhealthy training environment for Ormond and other National Team members. For example, Szauder said words to the effect that one of the National Team of Indian decent was expendable because there are “billions of people in India,” and she could be replaced.

86. Similarly, Szauder engaged in a repeated pattern of misogyny and sexual harassment, creating an unsafe training environment for the National Team members. Examples of Szauder’s misogynistic and harassing behaviour include but are not limited to sexually charged comments to Ormond and others on the National Team. For example, in front of Ormond or others on the National Team, Szauder said the following:

- (a) that when he was a young coach, he would stay in the dorms at competitions and walk around the hallway in a towel. He further stated that his room was next door to Brazilian and Ukrainian girls and that he would “choose a different side every day.”

- (b) words to the effect of "Grab her harder for the highlights. She's 24. Don't you think she's been grabbed before? Maybe not in the same way, but trust me, she's been grabbed before";
- (c) words to the effect of "You should zip up your sweater before you get me all excited"; and
- (d) words to the effect of "You are such a pretty girl when you smile, so why don't you smile."

87. At various times, Szauder also made misogynist and discriminatory comments to the entire National Team. For example, he told them women are supposed to cook for men; 10,000 years ago, it was men who brought back food so a woman could survive and, If wasn't for men, they wouldn't be there now. As another example, Szauder said words to the effect that women aren't going to keep their looks when they're older and needed to learn how to cook properly in order to keep a husband.

88. When Ormond and others complained to CAS staff about Szauder's comments, they were told that Szauder was "European," as if this somehow justified his misconduct. This ridiculous excuse is reflected in the Safe Sport Report (Exhibit R-2, see comments to questions 4, 6, 7, 8 posed to athletes), in which the reviewer notes that some of Szauder's conduct was attributed to "cultural differences." The reviewer concludes that it is "important that everyone involved conduct themselves under Canadian cultural norms and any violations of the Code of Conduct cannot be dismissed due to cultural differences," the whole as more fully appears from section 10 of the Safe Sport Report (Exhibit R-2).

89. Under Szauder as Head Coach, CAS continued a pattern of demonstrating manifest neglect for the wellbeing of the National Team athletes. This is evidenced, *inter alia*, by the information set out in the Safe Sport Report, in which athletes reported that their injuries and pain were ignored by CAS coaching staff and IST, who also withheld medical attention and nutrition.

90. Szauder accuses team members who complain about injuries of “faking” or lying about their suffering. He forced athletes to train even when training risked exacerbating existing injuries. While they were training in Hawaii in January 2020, Szauder told Ormond and the other National Team members that they were not allowed to see any support staff for any injury or health concern unless it was first approved by him. Szauder told Ormond and her teammates that from now they could not be depressed or injured. Only Szauder could say when they were depressed or injured. Ormond spent the training camp afraid that she would be injured and denied medical assistance.

91. The behaviour of Szauder and the rest of CAS staff in either facilitating or ignoring his behaviour created an environment in which Ormond and other National Team members were scared to report or rest from injuries because they feared it would lead to psychological abuse or losing their spot on the National Team.

92. Szauder also continued CAS’s tradition of accepting and encouraging psychologically abusive coaching styles. Without limiting the generality of the foregoing, Szauder regularly singled out individual athletes, including but not limited to Ormond, for humiliation in front of the team during training, mocking them for their body weights, efforts, training and performance with disparaging comments and sarcasm. Szauder

yelled and screamed at athletes, provoking significant distress in athletes during training sessions.

93. Szauder went so far as to threaten Ormond and others that, unless they performed better, he “would hit them so hard they wouldn’t know what happened.” Ormond understood this statement as a frightening physical threat. Later, CAS staff tried to justify Szauder’s comments to Ormond as purportedly only intending to refer to a “hit” with a demanding training session. Multiple CAS staff witnessed Szauder’s inappropriate behaviour or otherwise became aware of his misconduct and failed to act. CAS, its coaches and staff chose to ignore the inappropriate comments, failed or refused to escalate athletes’ complaints and made excuses for Szauder’s misconduct. Ormond ultimately left the National Team in September 2020.

94. During her exit interview with CAS CSO Healy, Ormond repeated her complaints concerning the misconduct of Szauder that she had witnessed and experienced. Without limiting the generality of the foregoing, Ormond told Healy about how she was afraid when Szauder said he would hit her and other athletes, how he singled out athletes for abuse and humiliation, how he made inappropriate sexual, misogynist and racist comments. When Ormond advised that she was considering filing a Safe Sport complaint about these issues, Healy told Ormond that if she filed a complaint, it would require Ormond to give permission for her “confidential records from various providers” to be released, and she needed “to prepare to be prepared for that to be part of the investigation.” Ormond felt confused (as she believed she had nothing to hide) and at the same time threatened by Healy’s statements.

95. While she was on the National Team, Ormond saw a psychologist to deal with feelings of depression and anxiety. While the psychologist recommended that she speak to a doctor to discuss a prescription for antidepressants, Ormond (who was 19 years old at the time) refused to do so. Having recently left the team, Ormond is still processing the impacts of her experiences. Since October 2020, Ormond has been seeing a psychologist intermittently, but to date the expenses for these sessions have been covered by INS. Ormond expects to continue with counselling for an indefinite period. Ormond spent approximately two years on the National Team suffering psychological abuse, neglect and harassment and seeks moral damages in the amount of \$25,000.

96. Shortly after Ormond's departure, on or around October 2, 2020, CAS suspended training at the INS (as described above). Around that time, allegations of Szauder's psychological abuse and harassment were made public by current and former National Team athletes, the whole as more fully appears from some of the press coverage communicated herewith *en liasse* as **Exhibit R-22**. However, as described in paragraphs 19 to 21 above, while a Safe Sport review was requested, CAS CEO Buckingham publicly stated that it was never intended to be an investigation of CAS coaches or IST. Further, after reading the Safe Sport Report, which found that nearly half the team admitted that they had been subjected to psychological abuse, neglect and various forms of harassment, Buckingham told journalists: "*Rien de flagrant n'a été signalé par les athlètes*" (see Exhibit R-6).

97. Buckingham has been the CEO of CAS since March 2014, the whole as more fully appears from the CAS press release dated March 5, 2014, communicated herewith

as **Exhibit R-23**. Buckingham was thus CAS CEO while both Chen and Sproule were coaches, and she was very aware of the history of concerns raised, usually in desperation, by its National Team. Buckingham's comments in Fall 2020 are entirely consistent with CAS's demonstrated failure to protect its athletes over the last ten years from psychological abuse, harassment, neglect and discrimination. As several news stories over the decade demonstrate, this behaviour was openly discussed, tolerated and even encouraged by CAS, the whole as more fully appears from the selection of those articles communicated herewith *en liasse* as **Exhibit R-24**. Finally, Buckingham's comments are also entirely consistent with CAS's failure to recognize the severe and lasting adverse impact that the conduct of its coaches and staff has had on the physical and mental health of its National Team athletes.

98. It is thus unsurprising that notwithstanding the complaints from swimmers and external coaches, the departures of athletes and the findings of the Safe Sport Report (discussed in paragraph 13 and 14 above) concerning the culture of fear, misogyny, abuse, bullying, and harassment within the CAS National Team, CAS made no staffing changes, authorized Szauder to return to his duties as Head Coach effective January 18, 2021, and ordered the National Team back to training where they continue to be subjected to an environment that does not respect their legal and human rights.

IV. THE RESPONDENT'S LIABILITY

A. CAS BREACHED ITS DUTY OF CARE TO THE MEMBERS OF THE NATIONAL TEAM

99. At all material times, CAS and its employees, agents and representatives owed a duty of care to the Petitioners to create and maintain a safe sport environment that,

among other things, fostered compliance with CAS's Conduct Policy, first adopted in 2007. A copy of the current CAS's Conduct Policy is communicated herewith as **Exhibit R-25**.

100. CAS and its employees, agents, and representatives had regular interactions with the Petitioners and the other National Team members. CAS had a close and direct supervisory relationship with its employees, agents and representatives. CAS was solely responsible for providing or causing the provision of all facilities, policies, standards and programs appropriate to ensure that the Petitioners and other National Team members were offered an environment that allowed them to train safely and free from psychological abuse and harassment.

101. The reasonable standard of care required CAS and its employees, agents and representatives to comply with the standards of behaviour and obligations set out in CAS's Conduct Policy, including, among other things:

- (a) Fostering an environment in which athletes can report misconduct, participate in investigations, and exercise their legal rights without retaliation;
- (b) Taking action to intervene on behalf of athletes whenever an individual becomes aware of misconduct;
- (c) Providing a sports environment that fosters equity, diversity and inclusion in all activities, including setting policies and developing, updating or delivering programs;

- (d) Supporting a sports environment that fosters respect and promotes everyone's dignity and self-esteem;
- (e) Creating and maintaining a sports environment that is free from discrimination, harassment, sexual harassment, bullying and violence, and in which all persons are treated fairly and with respect;
- (f) Encouraging the reporting of all incidents of discrimination, harassment, sexual harassment, bullying and violence, regardless of who the offender may be;
- (g) Requiring directors, officers and committee members to "promote a culture that values complaints and their effective resolution";
- (h) Requiring coaches to "ensure their athletes understand that discrimination, harassment, bullying and violence will not be tolerated, and create a culture of disclosure and reporting at the athlete level"; and
- (i) Requiring persons in leadership and club managers to "maintain an environment where everyone feels comfortable asking questions and raising concerns," "assist people in making a complaint if needed," "ensure that any possible or actual misconduct is investigated promptly and thoroughly," and "impose appropriate disciplinary or corrective measures when misconduct has been substantiated."

the whole as more fully appears from CAS's Conduct Policy (Exhibit R-24).

102. CAS and its employees, agents and servants breached the duty of care owed to the Petitioners. These breaches include, but are not limited to :

- (a) Directly engaging in psychological abuse, discrimination, harassment, and bullying behaviour;
- (b) Failing to act or intervene upon becoming aware of such misconduct;
- (c) Discouraging athletes from pursuing complaints or otherwise stymying their effective resolution;
- (d) Failing to implement the institutional and cultural changes required to provide a sports environment that is free from discrimination, harassment, sexual harassment, bullying and violence, and promotes dignity and self-esteem; and
- (e) Failing to ensure all individuals complied with CAS's Conduct Policy, which was in CAS's sole discretion to do.

103. CAS and its employees, agents, and servants knew or ought to have known that the above conduct was of a kind reasonably capable of causing the damages particularized above. CAS is, moreover, vicariously liable for the acts and omissions and its employees, agents and representatives.

104. By virtue of the relationship between the Petitioners and CAS, being one of trust, reliance and dependency, CAS owed a duty to ensure that the Petitioners were treated

respectfully, fairly and safely in their training environment, to act in the best interests of the Petitioners, and to protect them from the harm described in this action.

105. CAS was solely responsible for, among other things, the standards set out above.

106. The Petitioners had a reasonable expectation that CAS would comply with its obligations, given the assumption of responsibility for the care of the Petitioners, by virtue of:

- (a) CAS's power and authority over the Petitioners, while they were National Team members;
- (b) CAS's unilateral assumption of care for the Petitioners in their training environment; and
- (c) the Petitioners' dependence on CAS.

107. Given the circumstances of the relationship between CAS and the Petitioners, including but not limited to its authority and control over the Petitioners and their athletic careers, CAS undertook to act in the Petitioners' best interests and in accordance with the duty of care imposed on CAS. As a result of the power imbalance between CAS and National Team members, the Petitioners were particularly vulnerable to and at the mercy of CAS's discretion and control.

108. CAS's ability to exercise its power and discretion impacted the Petitioners' legal interests, including but not limited to their career advancement as athletes and participation in international competitions, including the Olympic Games, along with the

benefits related to such advancement and participation. CAS's discretion also directly exposed the Petitioners unfairly and improperly to psychological abuse, neglect and harassment. It was solely within the scope of CAS's discretion to ensure that appropriate policies and procedures were in place and followed to prevent misconduct of this nature.

109. CAS breached its duty to the Petitioners, the particulars of which include the failures set out above.

110. CAS knew or ought to have known that the Petitioners would suffer the damages described above as a consequence of its actions.

B. UNLAWFUL INTERFERENCE WITH RIGHTS UNDER THE *QUEBEC CHARTER*

111. The *Quebec Charter of Human Rights and Freedoms* (the "***Quebec Charter***") provides that every individual has the right to full and equal recognition and exercise of their human rights and freedoms, without distinction, exclusion or preference based on, among other things, race, colour, sex, gender identity or expression, as well as the right not to be harassed on these grounds (ss. 10 and 10.1 of the *Quebec Charter*). Moreover, every person has the right to the safeguard of their dignity (s. 4 of the *Quebec Charter*).

112. In failing to provide an environment free from psychological abuse, neglect and harassment, when it knew or ought to have known that such psychological abuse, neglect and harassment was ongoing, the Respondent has unlawfully and intentionally interfered with the rights of the Petitioners that are protected by the *Quebec Charter*.

V. THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT

113. The Petitioners wish to exercise their rights on behalf of the members of the Class.

114. The personal claims of each of the members of the Class against the Respondent are based on the following facts:

- (a) each Class member was subjected to psychological abuse, neglect and harassment by employees, agents or representatives of CAS by virtue of being members of the National Team at some point since January 1, 2010;
- (b) each Class member necessarily and automatically suffered severe injury as a result of being subjected to psychological abuse, neglect and harassment by employees, agents or representatives of CAS;
- (c) among the common injuries suffered by the Class and other high-performance female athletes subjected to psychological abuse, neglect and harassment, including decreased self-confidence, increased nervousness and fear, anxiety, depression, eating disorders, difficulty forming new healthy relationships, nightmares, suicidal thoughts and the need for professional psychological care;
- (d) whereas for some Class members, the incidences of psychological abuse, neglect and harassment took place more than three years ago, it

is common for athletes to normalize their experiences based upon the observation that psychologically abusive coaching practices were deployed against everyone on the National Team, it is only years later that athletes eventually recognized that they were subject to harassment and psychological abuse in their training environment; were able to recognize and understand the wrongful conduct of CAS its employees, agents and representatives; and the adverse impact that the psychological abuse, neglect and harassment had on them, not only when they were training with the National Team, but for years following their retirement from the team;

- (e) each Class member was the victim of unlawful intentional interference with her Quebec Charter rights, thus giving rise to punitive damages in virtue of the *Québec Charter of Human Rights and Freedoms*.

115. In addition, the identical, similar or related questions of law or fact raised by the members of the Class, which the Petitioners wish to have decided by this class action, are:

- (a) Did CAS and its employees, agents and representatives owe a duty of care to the members of the Class?
- (b) What was the applicable standard of care required of CAS and its employees, agents and representatives?

- (c) Did CAS or its employees, agents and representatives breach the applicable standard of care, and if so, how?
- (d) Is CAS vicariously liable towards the Class members for the damages caused to them by its staff members?
- (e) What kinds of injury or damages are commonly suffered by athletes due to being psychologically abused, neglected and harassed (including racial and sexual harassment) by staff members of their federation, including their coaches?
- (f) May the Court determine a minimum quantum of damage that the Class members suffered in common and/or set parameters for the damages suffered by the Class members, based on the gravity of the abuses and the consequences thereof?
- (g) Did CAS unlawfully and intentionally interfere with the rights of the Class members that were protected by *Quebec's Charter of Human Rights and Freedoms*?
- (h) If so, what is the appropriate amount of punitive damages to which the Respondent should be condemned to sanction and deter the conduct in question?
- (i) Is it appropriate for punitive damages to be recovered collectively?

VI. THE COMPOSITION OF THE CLASS MAKES IT DIFFICULT OR IMPRACTICABLE TO APPLY THE RULES FOR MANDATES TO TAKE PART IN JUDICIAL PROCEEDINGS ON BEHALF OF OTHERS OR FOR CONSOLIDATION OF PROCEEDINGS

116. At any one time, there were between 16 and 24 women on the National Team. Some stayed for years, others only a few months. In addition, there were athletes on the junior and 13 to 15-year-old teams who would train under CAS at INS for shorter periods. The names of all these athletes from 2010 are not publicly available.

117. While all the athletes trained at the INS facility in Montreal when they were on the National Team, and it was there that they were subjected to the wrongful conduct complained of herein, they came from and returned to locations all over the rest of Canada.

118. The psychological abuse, neglect and harassment suffered by the National Team perpetrated by CAS employees, agents and representatives took place over at least the last eleven years. During that period, the composition of the National Team was consistently changing. Consequently, many victims do not know one another and have not kept in touch with one another.

119. Victims of psychological abuse, neglect and harassment in sport fear coming forward for various reasons. They are concerned that they will be labelled as weak and unable to tolerate the challenges of training for sport at an elite level. They fear tarnishing the reputation of the sport they loved and their teammates who continue to participate. They may themselves also have ambitions to continue in the sport and other

roles (such as coaching), which they fear will be closed to them if they complain about their national association.

120. Some of the Class members are currently on the National Team and coming forward to claim redress as a petitioner will subject them to the risk of reprisals and the end of their artistic swimming careers, or at the very least their dreams of representing their country at the international level.

121. Under the circumstances, it would be impossible, and undoubtedly difficult or impracticable, for the Petitioners to locate all members of the Class to obtain a mandate to institute proceedings for their benefit.

122. The class action is the only procedural vehicle that will enable all victims of psychological abuse, neglect and harassment while on the National Team to access justice.

123. It would be impossible, as well as disproportionate, to require each member of the Class to institute an individual action. In contrast, a class action allows an economy of resources by having one judge hear all of the evidence and render a decision binding upon the Respondent and all the Class members.

VII. THE PETITIONERS ARE IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

124. At least one of the Petitioners was on the National Team over the proposed class period spanning the last ten years. Each Petitioner was subjected to psychological abuse, neglect and harassment while on the National Team.

125. The Petitioners have opted for the institution of legal proceedings through a class action in the hopes of obtaining justice for themselves and the many other victims who were their teammates on the National Team (or who remain on the National Team).

126. The Petitioners further seek to change the leadership of CAS to force a change of culture that is so desperately needed. The Petitioners wish for a world where young Canadian women can pursue their dreams of representing their country at the international level, without having to suffer the lifelong consequences of years of psychological abuse, neglect and harassment by CAS, its coaches, staff, agents and representatives, whose role is supposed to be to provide an environment where they can train and excel

127. The Petitioners have provided the undersigned attorneys with all information necessary to institute the present class action.

128. The Petitioners have the time, energy, will and determination to assume all responsibilities incumbent on them to carry out the class action diligently.

129. The Petitioners are acting in good faith and have as their sole goal to obtain justice for themselves and their teammates and a change in culture to improve future Canadian artistic swimmers' experiences at all levels.

130. The Petitioners have participated in drafting the present proceedings and have spent many hours preparing for same.

131. The Petitioners have no conflict with the members of the Class.

132. The Petitioners are represented by two experienced law firms with extensive experience in class actions.

VIII. THE SUPERIOR COURT FOR THE DISTRICT OF MONTRÉAL IS THE APPROPRIATE FORUM FOR THE CLASS ACTION

133. Petitioners suggest that the class action be brought before the Superior Court for the District of Montreal. This is the judicial district in which all Class members resided when they trained with CAS on the National Team. It is the judicial district where CAS's coaches, staff and other representatives committed their wrongful conduct. Moreover, the judicial District of Montréal is where the Class members suffered injury.

134. The present application to introduce an instance is well-founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS COURT TO:

[1] GRANT the present Application for Authorization to Institute a Class Action and to Obtain the Status of Representative;

[2] AUTHORIZE the institution of the Class Action;

[3] GRANT the status of representatives for the purpose of instituting the said Class Action for the benefit of the following group of persons, namely:

“All individuals who trained with the national swimming teams of Canada Artistic Swimming who were subjected to psychological abuse, neglect and harassment by coaches and staff of Canada Artistic Swimming between January 1, 2010, and March 8, 2021.”

“Toutes les personnes qui se sont entraînées avec les équipes nationales de Natation artistique Canada et qui ont été victimes d'abus, de négligence et de harcèlement psychologique de la part des entraîneurs et du personnel de Natation artistique Canada entre le 1er janvier 2010 et le 8 mars 2021.”

(the "**Class**");

[4] IDENTIFY the principal questions of law and fact to be dealt with collectively as follows:

- (a) What was the applicable standard of care required of CAS and its employees, agents and representatives?
- (b) Did CAS or its employees, agents and representatives breach the applicable standard of care, and if so, how?
- (c) Is CAS vicariously liable towards the Class members for the damages caused to them by its staff members?
- (d) What kinds of injury or damages are commonly suffered by athletes due to being psychologically abused, neglected and harassed (including racial and sexual harassment) by staff members of their federation, including their coaches?
- (e) May the Court determine a minimum quantum of damage that the Class members suffered in common and/or set parameters for the damages suffered by the Class members, based on the gravity of the abuses and the consequences thereof?
- (f) Did CAS unlawfully and intentionally interfere with the rights of the Class members that were protected by the *Quebec Charter of Human Rights and Freedoms*?
- (g) If so, what is the appropriate amount of punitive damages to which the Respondent should be condemned to sanction and deter the conduct in question?
- (h) Is it appropriate for punitive damages to be recovered collectively?

[5] IDENTIFY the conclusions sought by the class action to be instituted as being the following:

MAINTAIN the Class Action;

ORDER the Respondent to implement, apply and follow appropriate governance procedures for a national sport governing body so that the physical and psychological health of CAS athletes is both protected and no longer subordinated to performance;

CONDEMN the Respondent to pay to the Petitioner **Erin Willson** the amount of \$2,000, *sauf à parfaire*, in pecuniary damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to Petitioner **Erin Willson** the amount of \$75,000 in moral damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to the Petitioner **Chloé Isaac** the amount of \$5,000, *sauf à parfaire*, in pecuniary damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to Petitioner **Chloé Isaac** the amount of \$62,000 in moral damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to the Petitioner **Gabriella Brisson** the amount of \$300, *sauf à parfaire*, in pecuniary damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to Petitioner **Gabriella Brisson** the amount of \$75,000 in moral damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to the Petitioner **Gabrielle Boisvert** the amount of \$2,000, *sauf à parfaire*, in pecuniary damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to Petitioner **Gabrielle Boisvert** the amount of \$50,000 in moral damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to the Petitioner **Sion Ormond** the amount of \$1, *sauf à parfaire*, in pecuniary damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a

Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to Petitioner **Sion Ormond** the amount of \$25,000 in moral damages, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondent to pay to each member of the Class an amount for moral and pecuniary damages to be determined according to parameters taking into account the nature of the damages and sequels suffered, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

CONDEMN the Respondents to pay punitive damages of \$250,000, plus interest at the legal rate as of the date of the Application for Authorization to Institute a Class Action and to Obtain the Status of Representative, as well as the additional indemnity provided for by law in virtue of Article 1619 CCQ;

DECLARE :

a) That all Class members are entitled to be compensated for all of their pecuniary damages resulting from the faults of the Respondent, including, but without limitation, their disbursements pertaining to their therapy treatments;

b) That all Class members are entitled to be compensated for their non-pecuniary damages resulting from the faults of the Respondent, in accordance with parameters to be set by the Court during the trial pertaining to the collective questions;

ORDER collective recovery of the punitive damages claimed herein, and the liquidation of the Class members claims pursuant to Articles 595 to 598 CCP;

CONDEMN the Respondent to any further relief as may be just and proper;

THE WHOLE with legal costs, including the cost of all exhibits, reports, expertise and publication of notices.

[6] **DECLARE** that any member of the Class who has not requested his/her exclusion from the Class be bound by any judgment to be rendered on the Class action, in accordance with law;

[7] **FIX** the delay for exclusion from the Class at sixty (60) days from the date of notice to the members, and at the expiry of such delay, the members of the Class who have not requested exclusion be bound by any such judgment;

[8] **ORDER** the publication of a notice to the members of the Class drafted according to the terms and in the media to be determined by the Court in a further management conference, at the expense of the Respondent;

[9] **ORDER** that the class action be tried in the judicial district of Montreal;

[10] **PERMIT** the use of pseudonyms for the identification of Class members (other than the Petitioners who have chosen to disclose their name) in the proceedings, exhibits, and/or all other documents filed into the court record, to protect their identities;

[11] **THE WHOLE** with legal costs, including the cost of all publications of notices.

Montréal, March 8, 2021

Davies Ward Phillips & Vineberg LLP

DAVIES WARD PHILLIPS & VINEBERG LLP

Lawyers for the Plaintiff

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Montréal, March 8, 2021



Handwritten signature of Carlos Sayao, with the letters 'CS' visible at the end of the signature.

TYRLLP

Lawyers for the Plaintiff

Mr. James Bunting

Mr. Carlos Sayao

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SUMMONS
(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the plaintiff has filed this originating application in the office of the Superior Court of Québec in the judicial district of **Montreal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of **Montreal** situated at **1 Notre-Dame Street East, Montreal, Quebec, H2Y1B6** within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff.

Failure to answer

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

Content of answer

In your answer, you must state your intention to:

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

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

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your

main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

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

Calling to a case management conference

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

Exhibits supporting the application

In support of the originating application, the plaintiff intends to use the exhibits listed on the attached List of Exhibits. These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

NOTICE OF PRESENTATION

RECIPIENT :

**CANADA ARTISTIC SWIMMING / NATATION
ARTISTIQUE CANADA**, a company registered pursuant to the Canada Not-For-Profit corporations act, with its head office located at 700 Industrial Avenue, Suite 401, in the city of Ottawa, in the Province of Ontario.

Respondent

TAKE NOTICE that this application for authorization to institute a class action will be presented before the Superior Court at the Montréal courthouse, located at 1 Rue Notre-Dame Est, in the city and district of Montréal, on a date to be determined by the coordinating judge of the Class Action Division.

PLEASE ACT ACCORDINGLY.

Montréal, March 8, 2021

Davies Ward Phillips & Vineberg LLP

DAVIES WARD PHILLIPS & VINEBERG LLP

Lawyers for the Plaintiff

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Me Hannah Toledano

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htoledano@dwvpv.com

Montréal, March 8, 2021

A handwritten signature in black ink, appearing to read 'CSayao', with a small 'for' written below it.

TYR LLP

Lawyers for the Plaintiff

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Mr. Carlos Sayao

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ATTESTATION

We, the undersigned, attorneys for the plaintiffs, certify in accordance with Section 55 of the *Regulation of the Superior Court of Quebec in Civil Matters*, RLRQ c. C-25.01, r. 0.2.1 that this application for authorization to institute a class action will be entered in the National Class Action Register.

Montréal, March 8, 2021

Davies Ward Phillips & Vineberg LLP

DAVIES WARD PHILLIPS & VINEBERG LLP

Lawyers for the Plaintiff

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Montréal, March 8, 2021



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No. **SUPERIOR COURT**
(Class Action Division)
District of Montréal

CHLOE ISAAC et als.

Petitioners

vs.

**CANADA ARTISTIC SWIMMING / NATATION
ARTISTIQUE CANADA**

Respondent

**ORIGINATING APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO OBTAIN THE
STATUS OF REPRESENTATION
(Articles 574 et seq. C.C.P.)
Summons and List of Exhibits &
Exhibits R-1 to R-25**

ORIGINAL

DAVIES

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