CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

CLASS ACTIONS DIVISION
SUPERIOR COURT

NO : 500-06-001263-231

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS

Applicant

and

A.B.

Designated Member

v.

ATTORNEY GENERAL OF CANADA

Defendant

NOTICE TO THE ATTORNEY GENERAL OF QUÉBEC
AND TO THE ATTORNEY GENERAL OF CANADA
(Articles 76 and 77 of the *Code of Civil Procedure*, CQLR c C-25.01)

TO : **ATTORNEY GENERAL OF QUÉBEC**
Direction générale des affaires juridiques
Montreal Courthouse
1 Notre-Dame Street East, 8th Floor
Montréal, Québec H2Y 1B6

TO : **ATTORNEY GENERAL OF CANADA**
Quebec Regional Office
Department of Justice Canada
Guy-Favreau Complex
East Tower, 9th Floor
200 René-Lévesque Boulevard West
Montréal, Québec H2Z 1X4

Attention : Mes Ian Demers, Émilie Tremblay and Kim Nguyen

TAKE NOTICE THAT by its *Application for Authorization of a Class Action* (the "**Application**"), the Applicant seeks the authorization of the Superior Court of Québec to institute a class action for:

(a) a declaration that sections 185(b), 186(a), 186(b), 187(1), 187(3), 200(1)(c)(ii.1), 200(1)(c)(iii), 200(5) and 203 of the *Immigration and Refugee Protection*

Regulations, SOR/2002-227 (the "***IRPR***" and the "**Impugned Provisions**") are unconstitutional and of no force and effect as a result of their inconsistency with sections 7 and 12 and paragraph 15(1) of the *Canadian Charter of Rights and Freedoms* (the "***Charter***"); and

(b) an award of damages pursuant to paragraph 24(1) of the *Charter* and of private law compensatory and punitive damages to the Class Members as defined hereunder.

The Applicant seeks the authorization to institute this class action on behalf of the members of the following class (the "**Class**" and the "**Class Members**"):

> Any person who **(a)** on or after April 17th, 1982, worked in Canada as a foreign national (*i.e.* without being a Canadian citizen or a permanent resident of Canada at the time, and including a stateless person) and **(b)(i)** was issued a work permit conditional on engaging in work for a specific employer or group of employers or at a specific employer workplace location or group of locations; or **(ii)** was allowed to work without a work permit as a result of being employed by a foreign entity on a short-term basis or as a result of being employed in a personal capacity by a temporary resident, including a foreign representative.

The Application will be presented before the Superior Court of Québec at the Montréal Courthouse, located at 1 Notre-Dame Street East, in the city and judicial district of Montréal, province of Québec, H2Y 1B6, on a date and in a room to be determined by the Court.

The contentions the Applicant intends to assert and the grounds on which they are based are the following, as fully detailed in the Application enclosed with this Notice:

1. For over 50 years, the Government of Canada has restricted the ability of certain temporary foreign workers[1] to change employers while in the country. Such restrictions have stemmed from regulatory measures providing for the issuance of "closed" or "employer-specific" work permits, among other things. Hundreds of thousands of migrant workers have been subjected to employer-tying measures in Canada.

2. The harmful impacts of those measures are widely known and well-documented.

3. The employer-tied workers' inability to change employers creates a striking power imbalance in favour of the employer, making migrant workers uniquely vulnerable to several forms of exploitation, abuse, and human and labour rights violations, while simultaneously limiting their capacity to assert their rights and to seek redress for their breach.

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[1] Also referred to as "**migrant workers**".

4. The employer-tying measures imposed by the Government of Canada have at all times infringed temporary foreign workers' right to life, liberty and security of the person and failed to accord with principles of fundamental justice in doing so.

5. Such measures have also at all times been intrinsically incompatible with human dignity and have given rise to a cruel and unusual treatment of the employer-tied workers.

6. Consequently, those measures have been in violation of sections 7 and 12 of the *Charter* since it came into force on April 17th, 1982.

7. Employer-tying measures have also been in violation of paragraph 15(1) of the *Charter* since it came into force on April 17th, 1985. The modern Canadian labour migration regimes involving employer-tied workers were established when temporary foreign workers in designated occupations ceased being predominantly white and began including increasing numbers of persons of colour. The incorporation of employer-tying measures within those regimes was rooted in discrimination based on race, national or ethnic origin and colour. The discriminatory effects of employer-tying measures persist to this day.

8. The Applicant therefore seeks a declaration that the Impugned Provisions, which currently allow the Government of Canada to continue binding temporary foreign workers to specific employers, are unconstitutional and of no force and effect.

9. However, a bare declaration of unconstitutionality would be insufficient to provide a proper remedy to the temporary foreign workers who were subjected to employer-tying measures.

10. An award of damages is appropriate and just, notably to compensate the harm suffered by employer-tied migrant workers, to vindicate their *Charter* rights and to deter future breaches thereof by the Government of Canada. Such an award is justified in light of the gravity of the government's conduct in relation to the use of employer-tying measures in Canada.

11. The discriminatory attitudes underlying the introduction of employer-tying measures led the Government of Canada to disregard the affected workers' human rights and dignity and the foreseeable harm that employer ties would cause them.

12. The Government of Canada has since been made aware, on repeated occasions, of the harmful impacts of employer-tying measures. It has now had knowledge of those impacts for decades and has even expressly acknowledged them.

13. Yet, despite the foregoing, the Government of Canada has not ceased to resort to employer-tying measures. It has instead continued to subject a growing number of temporary foreign workers to those measures – and it still continues to do so today.

14. The Government of Canada's failure to put an end to those measures evidences its continued clear disregard for the employer-tied migrant workers' *Charter* rights and human dignity.

15. The Applicant therefore seeks the authorization of this Court to institute a class action for declaratory relief as described above, and for an award of damages under paragraph 24(1) of the *Charter* and of compensatory and punitive damages under private law.

16. The Applicant seeks the authorization to institute this class action on behalf of the Class, formed of all temporary foreign workers who were unconstitutionally subjected to an employer-tying measure in Canada.

17. A proper understanding of the facts on which the claims of the Designated Member and other Class Members against the Defendant are based requires an overview of the programs under which foreign nationals may currently be hired to work in Canada on a temporary basis **(Part I)** and a presentation of the Impugned Provisions and their administrative context **(Part II)**.

I. THE CANADIAN PROGRAMS FOR TEMPORARY FOREIGN WORKERS

A. THE CURRENT PROGRAMS

18. Employers may currently hire temporary foreign workers either under the Temporary Foreign Worker Program (the "**TFWP**") or under the International Mobility Program (the "**IMP**").

19. The TFWP is formally presented as a program that allows "*employers to hire foreign workers to fill temporary jobs when qualified Canadians are not available*", as appears from the copy of a webpage entitled "Temporary Foreign Worker" contained on the website of Employment and Social Development Canada ("**ESDC**"), a department of the Government of Canada, communicated as Exhibit P-1 to the Application.

20. The IMP is formally presented as a program that allows employers to hire temporary foreign workers where there are "*broader economic, cultural or other competitive advantages for Canada" or "reciprocal benefits enjoyed by Canadians and permanent residents*", as appears from the copy of a webpage entitled "Temporary workers" contained on the website of Immigration, Refugees and Citizenship Canada ("**IRCC**"),

a department of the Government of Canada, communicated as Exhibit P-2 to the Application.

21. Foreign nationals who are authorized under the *IRPR* to work in Canada without a work permit are admitted under the IMP, as appears from Exhibit P-2.

22. The key difference between the TFWP and the IMP is whether the employer needs a positive Labour Market Impact Assessment (an "**LMIA**") in order to be authorized to hire the temporary foreign worker.

23. The aims of an LMIA include assessing whether the employment of the foreign national is likely to have a neutral or positive effect on the labour market in Canada and confirming that no Canadians or permanent residents are available to do the job.

24. A positive LMIA is always required, in addition of a positive "job offer genuineness" assessment, to be authorized to hire a temporary foreign worker under the TFWP.

25. The TFWP is administered by ESDC and IRCC. ESDC is responsible for issuing the LMIA to the employer. IRCC is responsible for assessing the genuineness of the offer of employment. Once a positive LMIA and a positive "job offer genuineness" assessment have been issued to the employer or group of employers, the temporary foreign worker can apply for a work permit, a process for which IRCC is responsible.

26. Conversely, "[t]*he IMP lets employers hire temporary workers without an LMIA*", as appears from Exhibit P-2.

27. "*In most cases*" under the IMP, the employer must "*submit an offer of employment*" and be issued a positive "job offer genuineness" assessment by IRCC before the temporary foreign worker can apply for a work permit, as appears from the copy of a webpage entitled "Hire a worker without an LMIA: About the process" contained on IRCC's website, communicated as Exhibit P-3 to the Application. These cases are hereinafter referred to as the "**job offer genuineness streams of the IMP**".

28. Another difference between the TFWP and the IMP pertains to whether the work permits issued under such programs are "open", "restricted" or "closed".

29. A "closed" or "employer-specific" work permit only allows the temporary foreign worker to work in Canada according to the specific conditions on the work permit, including the name of a specific employer or group of employers, as appears from the copy of a webpage entitled "Work permit: About the process" contained on IRCC's website, communicated as Exhibit P-4 to the Application.

30. An “open” work permit allows the temporary foreign worker to work for any employer in Canada, subject to restrictions applying generally to all work permits.

31. A “restricted” work permit allows the temporary foreign worker to work for any employer under certain other conditions, such as specific occupations.

32. As further explained at paragraphs 48 and 49 of the Application, any work permit issued under the TFWP will be a “closed” work permit. The employer or group of employers who obtained the positive LMIA will be specifically designated on the work permit.

33. Conversely, under the IMP, “open”, “closed” or otherwise “restricted” work permits can be issued. But as a matter of policy, a “closed” work permit will in the vast majority of cases be issued under the job offer genuineness streams of the IMP. The employer or group of employers who obtained the positive “job offer genuineness” assessment will be specifically designated on the work permit.

34. Finally, both the TFWP and the IMP are subdivided in several streams with diverse requirements and operating procedures. In particular, one of the streams included under the umbrella of the TFWP is the Seasonal Agricultural Worker Program (the “**SAWP**”).

35. Under the SAWP, “*the employers can hire [temporary foreign workers] from participating countries for a maximum period of 8 months*” for activities related to on-farm primary agriculture, as appears from the copy of a webpage entitled “Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview” contained on ESDC’s website, communicated as Exhibit P-5 to the Application.

36. A particular feature of the SAWP is that the Government of Canada imposes a standard, non-modifiable contract of employment to the temporary foreign worker. The current standard contracts for seasonal agricultural workers from Mexico and from the other participating Caribbean countries (collectively, the “**SAWP Contracts**”) are communicated *en liasse* as Exhibit P-6 to the Application.

B. THE HISTORICAL DEVELOPMENT OF THE PROGRAMS

37. Employer-tying measures were first built into the initial iteration of the SAWP in 1966, which provided for the hiring of temporary agricultural workers from Jamaica.

38. Migrant workers under the SAWP are bound to specific employers. This was the case in 1966 and it remains the case today.

39. In 1973, the Government of Canada introduced its first comprehensive regulatory framework governing the entry of temporary workers in Canada specifically based on

specific employers' labour market needs: the Non-Immigrant Employment Authorization Program (the "**NIEAP**").

40. The basic features of the SAWP and NIEAP still exist in the modern-day TFWP: among other things, workers are bonded to a specific employer and hiring is limited by various requirements for employers, including a requirement to demonstrate labour market needs.

41. The NIEAP was gradually updated over the years, and it eventually became known as the TFWP.

42. From 1973 until the adoption of the current *IRPR* in 2002, the regulatory language used to provide for employer-tying measures remained for all intents and purposes the same.

43. The Government of Canada consolidated in 2014 all non-TFWP streams into the current-day IMP.

II. THE IMPUGNED PROVISIONS AND THEIR ADMINISTRATIVE CONTEXT

A. THE CURRENT PROVISIONS

44. The regulatory provisions which currently set out the Government of Canada's authority to tie a temporary foreign worker to a specific employer or group of employers, either directly or indirectly – the Impugned Provisions – are the following:

(a) paragraph 185(b) of the *IRPR*;

(b) paragraph 186(a), combined with subsections 187(1) and 187(3) of the *IRPR*;

(c) paragraph 186(b) of the *IRPR*;

(d) subparagraph 200(1)(c)(ii.1), combined with subsection 200(5) of the *IRPR*; and

(e) subparagraph 200(1)(c)(iii), combined with section 203 of the *IRPR*.

45. The Impugned Provisions are supplemented by several policies, procedures and guidance of an administrative nature and, in the case of the SAWP, by the SAWP Contracts (the "**Administrative Context**").

i. Paragraph 185(b) of the *IRPR*

46. Paragraph 185(b) of the IRPR formally provides Canadian immigration officers with the authority to issue a "closed" work permit at their discretion.

47. However, as a result of the Administrative Context, this discretion is systematically exercised in favour of the issuance of a "closed" work permit to temporary foreign workers for whom a positive LMIA was needed (under the TFWP) or for whom the employer was required to obtain a positive "job offer genuineness" assessment (under the TFWP or the job offer genuineness streams of the IMP), as appears from the copy of a webpage entitled "Conditions and validity period on work permits (temporary workers)" contained on IRCC's website, communicated as Exhibit P-7 to the Application.

48. The SAWP Contracts reassert and strengthen the employer-tying measures imposed as result of the Impugned Provisions and their Administrative Context, as appears from Exhibit P-6.

49. Employer-tying measures are also imposed on certain temporary foreign workers who are allowed to work in Canada without a work permit, despite the fact that such workers do not fall within the scope of paragraph 185(b) of the *IRPR*. Such employer-tied workers include some of those who are subject to paragraphs 186(a) and 186(b) of the *IRPR* and their related provisions, presented below.

ii. Paragraph 186(a) of the *IRPR* and Related Provisions

50. Paragraph 186(a) and subsections 187(1) and 187(3) of the *IRPR* allow foreign nationals qualifying as business visitors to work in Canada without a work permit.

51. The Administrative Context of these provisions establishes in particular that "*foreign nationals employed in a personal capacity, for example, as a domestic servant, personal assistant or nanny (caregiver), on a full-time basis by short-term temporary residents generally meet the business visitor criteria in paragraphs R187(3)(a) and (b). They may enter as business visitors <u>if accompanying or joining their employers</u>*" [our emphasis], as appears from the copy of a webpage entitled "Business visitors [R186(1)]: Authorization to work without a work permit - International Mobility Program" contained on IRCC's website, communicated as Exhibit P-8 to the Application.

52. Such migrant workers are therefore tied to their specific employers in Canada. Other migrant workers admitted as business visitors may also be so tied.

iii. Paragraph 186(b) of the *IRPR*

53. Paragraph 186(b) of the *IRPR* allows persons under diplomatic status to work in Canada without a work permit.

54. Under this provision, the Office of Protocol of Global Affairs Canada ("**GAC**"), a department of the Government of Canada[2], has established the Domestic Worker Accreditation Program.

55. This program allows "*domestic workers of certain high-level members of a diplomatic mission, consular post or international organization*" to work in Canada, as appears from the copy of a webpage entitled "International Mobility Program: Domestic workers of foreign representatives" contained on IRCC's website, communicated as Exhibit P-9 to the Application.

56. As a result of the Administrative Context of paragraph 186(b) of the *IRPR*, domestic workers in diplomatic households "*cannot work for more than one employer at a time*" and cannot work for another foreign representative in Canada "*without the express consent of the Office of Protocol*", as appears from the copy of webpages entitled "Hiring a domestic worker and related accreditation program" and "Accredited Domestic Workers in Diplomatic Households – About your Rights and Protections" contained on GAC's website, communicated *en liasse* as Exhibit P-10 to the Application.

57. As will be established at trial, this Administrative Context restricts the ability of domestic workers in diplomatic household to change employers and results in their subjection to employer-tying measures.

iv. Subparagraphs 200(1)(c)(ii.1) and 200(1)(c)(iii) of the *IRPR* and Related Provisions

58. Whereas the foregoing Impugned Provisions and their Administrative Context give rise to *direct* employer-tying measures, the remainder of the Impugned Provisions and their Administrative Context establish *indirect* employer-tying measures by interfering with employers' capacity to legally hire migrant workers.

59. Indirect employer-tying measures further restrict temporary foreign workers' ability to change employers by restricting their capacity to accept an alternative offer of employment once they are already in Canada.

60. Those provisions establish the job offer genuineness streams of the IMP. Section 200(5) of the *IRPR* also defines "job offer genuineness" for the purposes of the assessment required under the TFWP.

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[2] Previously known as the Department of Foreign Affairs and International Trade and also currently known as the Department of Foreign Affairs, Trade and Development.

61. Conversely, subparagraph 200(1)(c)(iii) and section 203 of the *IRPR* establish the LMIA regime under the TFWP.

62. The Administrative Context of the foregoing Impugned Provisions is detailed and voluminous, as appears from the list contained in Exhibit P-2, among other things.

63. These Impugned Provisions provide Canadian immigration officers and/or ESDC with the authority to recognize a specific employer or group of employers as being authorized to hire a foreign national under the LMIA or "job offer genuineness" regimes.

64. Other employers are unable to hire the temporary foreign worker – even for the same type of work and in the same geographical area – without first having gone through a separate LMIA and/or "job offer genuineness" process.

65. An employer who nevertheless hires the temporary foreign worker may commit an offence under paragraph 124(1)(c) and section 125 of the *Immigration and Refugee Protection Act*, SC 2001, c. 27.

66. The LMIA and "job offer genuineness" processes are lengthy, complex and costly for employers.

67. As evidenced by the criteria set out in the Impugned Provisions, such processes will only be successful in certain circumstances (depending on the sector, skills involved, region, employer record and content of the job offer, among other things).

68. As a result, the requirement for separate LMIA or "job offer genuineness" processes before other employers can hire temporary foreign workers constitutes a major restriction on migrant workers' ability to change employers, and acts as an indirect employer-tying measure.

B. THE PREVIOUS PROVISIONS

69. Regulatory provisions allowing the Government of Canada to impose employer-tying measures have existed, in some form or another, at least since the inception of the SAWP in 1966 in respect of workers employed in agriculture, and more generally across sectors since the inception of the NIEAP in 1973.

70. In particular, provisions akin to the Impugned Provisions have been in force since the advent of the *Charter*.

71. Section 23 of the now-repealed *Immigration Regulations, 1978,* SOR/1978-172 (the "***1978 Regulations***"), communicated as Exhibit P-11 to the Application, previously set

out the immigration officers' authority to impose employer-tying conditions on work permits, currently found in paragraph 185(b) of the *IRPR*.

72. Similarly, section 20 of the *1978 Regulations* laid down the precursor to the current LMIA process.

III. THE FACTS ON WHICH THE DESIGNATED MEMBER'S CLAIM AGAINST THE DEFENDANT IS BASED

A. THE DEMONSTRATED HARMFUL IMPACTS OF EMPLOYER-TYING MEASURES

73. The harmful impacts of employer-tying measures are widely known and well-documented.

74. Temporary foreign workers subject to employer-tying measures automatically lose their capacity to work legally in Canada upon the termination of their employment with the designated employer or group of employers. As such, the termination of their employment for any reason results in the worker being legally prohibited from earning a livelihood in Canada for an indeterminate period of time.

75. Recovering the capacity to work legally in Canada is lengthy, difficult, costly, and most importantly highly uncertain. Migrant workers may not be able to request the issuance of a new work permit, and any such request may be denied.

76. Given the larger Canadian regulatory framework which applies to temporary foreign workers, the termination of their employment additionally entails losing access (or significant delay in access) to health coverage, permanent legal status for the foreign workers and legal status for the foreign workers' spouses and children.

77. Foreign workers as well as their spouses and children face deportation by the Canada Border Services Agency – possibly more indebted than before.

78. Employer-tying measures therefore create a striking power imbalance between the foreign workers and their employers.

79. As a result of this power imbalance, employer-tied status results in, among other things:

    (a) a restricted capacity to resign and to make other fundamental choices concerning their work and their livelihood in Canada;

    (b) a restricted freedom of movement;

    (c) a major psychological stress associated with the fear of losing legal status, with options and risks being at every moment dependent on the will of the employer;

(d) a restricted access to social interactions and resulting social isolation;

(e) a restricted access to potential assistance, including community networks, and support networks such as legal clinics or unions;

(f) a restricted access to health and social services;

(g) a restricted access to health and social benefit programs to which migrant workers contribute, including unemployment insurance and labour benefits such as salary compensation and paid treatments in case of work-related accidents, injuries or illnesses, and their frequent deprivation of the benefits of those programs; and

(h) a restricted capacity of migrant workers to assert their legal rights and to seek redress for the violation of such rights through administrative or judicial processes, even in situations where migrant workers have knowledge of their legal rights and resources.

80. The dependency on the employer created by employer-tying measures makes temporary foreign workers uniquely vulnerable to several forms of exploitation, abuse and human and labour rights violations, including but not limited to:

(a) financial abuses, such as non-payment, late payment or underpayment of wages, wage theft, illegal deductions or fees and debt bondage;

(b) employer control over movements, including running errands for basic necessities, and over social interactions, during off-duty hours;

(c) unsafe working conditions, which may involve hazardous tasks, exposure to physical or chemical hazards, exposure to extreme weather, lack of personal protective equipment, exposure to faulty or broken equipment or machinery, inadequate training, unsafe transportation methods, unsustainable productivity targets, excessive working hours, and insufficient breaks and periods of rest;

(d) work-related accidents, injuries, illnesses or death;

(e) experiencing poor living conditions, including inadequate, unsanitary, overcrowded or poorly-maintained accommodation, inadequate nutrition, lack of access to clean drinking water, lack of access to sanitation facilities, sleep deprivation, and lack of privacy;

(f) experiencing discrimination, intimidation or psychological harassment;

(g) physical violence or assault;

(h) sexual harassment, sexual assault or rape;

(i) chronic fatigue, stress and mental health issues, including depression and anxiety disorders;

(j) substance use disorders;

(k) experiencing situations of illegal or undocumented work or of irregular status, as a result of incompetency, negligence or fraud; and

(l) becoming a victim of human trafficking.

81. These harmful impacts are compounded when temporary foreign workers work in remote locations, reside in employer-provided accommodation or live in their employer's own home, among other things.

82. Yet these harmful impacts do not only occur in particular situations. They are widespread and common to employer-tied workers of all skill levels, levels of education, types of occupation, provinces and territories, and employment sectors.

83. Beyond the harms caused to temporary foreign workers, employer-tying measures also result in broader harmful impacts on Canadian society as a whole.

84. They exert a downward pressure on the working conditions offered by employers to Canadian citizens, permanent residents and other non-tied workers in the country.

85. They also incentivize employers to replace such employees with additional employer-tied migrant workers.

86. They facilitate the impunity of abusive employers, constitute a major obstacle to the operation of human and labour rights legislations, and more generally detrimentally impact the rule of law in Canada.

B. THE HARMFUL IMPACTS SUFFERED BY THE DESIGNATED MEMBER

87. The Designated Member personally suffered most of the demonstrated harmful impacts of employer-tying measures.

88. A.B. was born in Guatemala in 1992.

89. When he was an infant, his aunt emigrated to Canada as a political refugee, in the context of the Guatemalan Civil War. As a child, A.B. would receive postcards from his aunt. He formed a dream to live in Canada one day.

90. In 2014, he was put in contact with a man from Guatemala who was working in Québec. This man told A.B. that, in exchange for CAD$3,000, he could provide him with an offer of employment from the man's employer, which would allow A.B. to obtain a work permit. A.B., who had been living in poverty, used his economies to pay this fee.

91. A few months later, A.B. obtained a first "closed" work permit valid from November 2014 to October 2016 under the Agricultural stream of the TFWP (which, for clarity, is not the same as the SAWP), and he entered Canada to begin employment for a poultry catching business in the province of Québec.

92. In the context of this first employment, A.B. and other employees were driven to poultry farms. They were required to catch poultry which would then be brought to slaughterhouses.

93. A.B. was required to work every night from Monday to Friday, starting at or around 7 PM, with an average of 12 hours each night and only three pauses of 10 minutes. He was expected to catch up to 40 000 chickens per night, at a rate of five chickens in each hand for every catch.

94. A.B. was paid for every 1 000 birds he would catch. For big chickens, he would receive $3.75 per thousand; for turkeys, which are heavier than chickens, $12.00 per thousand. Québécois workers would be paid double these rates. Moreover, A.B. was only paid for his catches, never for the time spent being transported to or from farms, however distant. He was frequently underpaid or paid late.

95. A.B. did not receive appropriate training for the job. He was forced to work in dangerous work sites, often with partly collapsed floors or with improper heating, air conditioning and/or aeration. He was also forced to work in blazing heat or in extreme cold, without appropriate winter clothing and boots.

96. His coworkers and him regularly came in contact with poultry feces or with dead and decomposing poultry. Yet they were provided with no masks or gloves. They were told that they were expected to buy their own gloves.

97. At the end of his shifts, A.B. would often go to bed with rips and tears on the skin of his hands and with his muscles aching all over. When he woke up, he was often unable to extend his hands, which would remain contracted and curled in a "catching" position.

98. As a matter of fact, A.B. and most of his coworkers would consume Tylenol to be able to work. Some of A.B.'s coworkers also took stronger drugs.

99. Many workers developed skin conditions as a result of allergic reactions. The employer would then "medically" repatriate them immediately without compensation. This deterred A.B. and those who remained from complaining.

100. A.B. lived with coworkers in cramped lodgings assigned by his employer, where they would sleep in bunk beds, without any privacy.

101. As a result of his "closed" work permit, A.B. had no choice but to endure this treatment.

102. He feared that complaining could lead to being fired, threatening his status in Canada, his ability to obtain a renewal of his permit (including as a result of blacklisting), his ability to earn a living and his longer-term project of immigrating to Canada permanently.

103. In September 2015, A.B. suffered a work injury. While catching turkeys, around midnight, he bent down and was unable to re-straighten his back.

104. A.B. advised his supervisor, who gave him pills but refused to take him to the hospital and instead required him to wait in a vehicle, in pain, for several hours until the end of the shift.

105. A.B. was then driven home and told that he should call the employer later. He did do so around 8 AM. He was told that it was too late to go to an emergency room as it was past 5 AM, and was required to wait until 5 AM the next day, while still in severe pain.

106. When A.B. was finally driven to the hospital, he was accompanied by his employer's interpreter, as a result of his limited knowledge or French or English. The doctor diagnosed a back sprain. He prescribed sick leave for six weeks, strong medication, as well as physiotherapy and occupational therapy treatments.

107. A.B. asked the doctor whether he might be suffering from a hernia. The doctor answered that the treatment would in any event be the same and did not perform additional tests.

108. A.B.'s sick leave was renewed on multiple occasions for additional periods of six weeks, as A.B.'s pain did not cease.

109. During A.B.'s sick leave, his employer frequently accused him of faking, of lying and of taking advantage of the situation not to work. He told him that they would send him back to Guatemala when they could.

110. A.B. was completely demoralized and felt worthless.

111. A.B.'s employer eventually told him that they had had enough and required him to be assessed by a private doctor. This doctor prescribed a progressive return to work. A.B. mentioned that he was still feeling constant pain. The doctor did not prescribe further tests and answered that A.B. would have to grow used to the pain.

112. A.B. then continued to work on a full-time basis for the remainder of his work permit, while continuing to feel pain.

113. His contract was not renewed when it ended. A.B. was told by his employer that if he left now, they would sponsor him again in six months – which they never did. He was given and required to sign a document stating that he was leaving of his own will and would not blame his employer.

114. A.B. went back to Guatemala. He underwent an MRI, which confirmed that he had been suffering, and continued to suffer, from a herniated disc.

115. A few months later, A.B. met someone who put him in contact with a second employer, a family dairy farm in another region of Québec.

116. From 2017 to 2019, A.B. worked for this employer on three other "closed" work permits under the Agricultural stream of the TFWP. His initial work contract was renewed twice.

117. A.B.'s work involved working with cows on the farm. He was not given training, and was frequently hit by the animals.

118. A.B. was also required to do various odd jobs, such as splitting wood for the wood-burning stove, repairing the artesian well and other construction work, often without appropriate equipment.

119. A.B. was regularly overworked and often did not have adequate breaks or time to eat lunch. He either had one day off per week or none. He experienced colossal stress.

120. While A.B.'s salary was supposed to be paid on a bi-weekly basis, it was frequently paid late, up to several weeks after the due date.

121. Throughout his second employment (but with upturns when a contract renewal approached), A.B. was subject to psychological harassment by his employer and the latter's wife, including aggressive behaviour, homophobic and racial slurs, rants against the incompetence of migrant workers, and humiliating and degrading comments.

122. A.B. suffered as a result of this abuse. He grew discouraged and anxious and regularly cried when he was by himself. He saw himself growing accustomed to being insulted and mistreated. He again felt worthless.

123. A.B.'s suffering was exacerbated by social isolation. A.B. was not provided with an access to a telephone line or to Internet despite the fact that he was the only migrant worker on the farm, which was located remotely in the countryside. He had access to a car, but his employers did not allow him to use it for personal purposes (other than travelling between the farm and A.B.'s housing).

124. He considered leaving his job, but felt that it was the only way to maintain his right to work in Canada and to avoid jeopardizing his longer-term project of securing permanent resident status in the country.

125. In 2019, A.B. had an accident which aggravated the pain from his 2015 work injury. He asked his employer to take him to the hospital.

126. For several days, his employer refused to do so. He mentioned that the farm would have problems.

127. Instead, he told A.B. to take Tylenol and to apply Voltaren. He also pressured him to work, which A.B. did until the pain became so severe that he struggled to walk.

128. At that point, A.B.'s employer announced that he had communicated with the recruitment agency and told A.B. that he was leaving for Guatemala shortly.

129. It was only after A.B. managed to reach out to the recruitment agency, who was able to convince his employer, that A.B. was finally taken to the hospital.

130. On the way there, he was accused by his employer's wife of being a swindler who wanted to steal their money. She told him that they would make sure that he couldn't work in Canada again.

131. At the hospital, A.B. discovered that his employer had never completed the formalities required for him to have health insurance. The hospital graciously assumed most of the costs of the tests, and A.B.'s employer accepted to pay a small portion thereof.

132. Following his return to the farm, A.B.'s employer dismissed him, even though his recently-renewed work contract was supposed to extend into 2021.

133. A.B. returned to Guatemala in November 2019 in worse condition than the first time. He felt extremely sad, discouraged and depressed, and again felt worthless.

134. A month later, his cousin put him in contact with another dairy farm in another region of Québec.

135. From 2020 to 2022, A.B. worked for this third employer on two other “closed” permits under the Agricultural stream of the TFWP.

136. During his third employment, A.B. also experienced, among other things:

(a) psychological harassment, including manipulative and aggressive behaviour and degrading comments;

(b) intimidation by an alcoholic coworker, which the employer refused to put an end to despite A.B.’s request;

(c) underpayment for his work, which now involved certain managerial and supervisory duties; and

(d) poor living conditions, overcrowding and lack of privacy in employer-provided housing.

137. While occupying his third employment, A.B. reached out to other employers on several occasions, seeking to obtain an offer from them and a new work permit. His efforts were unsuccessful. Other employers would frequently refer to him as “belonging” to the farm which hired him.

C. EMPLOYER-TYING MEASURES ARE INCONSISTENT WITH SECTION 7 OF THE *CHARTER*

138. As appears from the preceding sections, the harmful impacts of employer-tying measures on temporary foreign workers’ physical and psychological health, as well as on their liberty, autonomy, dignity, and capacity to assert their rights and access justice are extremely severe.

139. Employer-tying measures have at all times infringed migrant workers’ right to life, liberty and security of the person, engaging section 7 of the *Charter* since its entry into force on April 17th, 1982.

140. With respect to liberty, employer-tying measures restrict temporary foreign workers’ physical liberty and capacity to make fundamental life choices by preventing them from changing employers and, more generally, by making them wholly dependent on their employers for the preservation of their legal status in the country, and by restricting their capacity to seek redress for a violation of their rights through judicial or administrative processes.

141. With respect to life and security of the person, as explained at paragraphs 82 to 84 of the Application, employer-tying measures expose migrant workers to death, serious physical or serious psychological harm, or increased risks of each such consequence.

142. The employer-tying measures to which A.B. was subject infringed his section 7 of the *Charter* rights in this manner.

143. In addition, employer-tying measures clearly run counter to important international obligations of Canada, as codified in international human rights instruments adopted in Canadian law such as the *International Covenant on Economic, Social and Cultural Rights* (the "**ICESCR**"), which provides at Article 6(1):

> 1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
>
> […]

144. The Supreme Court of Israel notably relied on Article 6(1) of the ICESCR to declare that a similar "restrictive employment arrangement" included in the immigration statutes of Israel violated foreign workers' right to dignity and liberty (see *Kav LaOved Worker's Hotline and others v. Government of Israel*, [2006] (1) IsrLR 260 ("***Kav LaOved***").

145. These deprivations were caused at all times, in the first place, (a) by the Government of Canada's adoption of the Impugned Provisions and their predecessors; and (b) by its continued reliance on them despite clear awareness and acknowledgement of their harmful impacts.

146. Moreover, the state-caused infringements of the Class Members' right to life, liberty and security of the person have never been in accordance with principles of fundamental justice.

147. Firstly, the deprivations of life, liberty and security of the person caused by employer-tying measures are arbitrary, as will be established at trial.

148. The purposes of employer-tying measures explicitly expressed by the Government of Canada are the protection of Canadian workers' labour market interests and the protection of employer-tied temporary foreign workers.

149. In light of the demonstrated harmful impacts of employer-tying measures both on migrant workers and on Canadian society as a whole, as explained at paragraphs 75 to 88 of the Application, there can be no rational connection between these purposes and those impacts, which directly contravene them.

150. Secondly, even if there was such a rational connection, the employer-tying measures' harmful impacts on the life, liberty and security of migrant workers would be grossly disproportionate to the foregoing purposes.

151. In particular, less harmful alternatives to admission under "closed" work permits or other employer-tying measures exist and are reasonably available. They include, among other things:

(a) immigration selection programs; or

(b) unconditional access to permanent legal status upon arrival;

(c) admission under "open" work permits (which is already the case for certain temporary foreign workers admitted under the IMP), with governments or non-profit organizations as official sponsors.

152. The foregoing breaches of section 7 of the *Charter* cannot be justified in a free and democratic society pursuant to section 1 of the *Charter*.

153. The employer-tying measures imposed by the Government of Canada are and have therefore been in violation of section 7 of the *Charter* since its entry into force on April 17th, 1982.

D. EMPLOYER-TYING MEASURES ARE INCONSISTENT WITH SECTION 12 OF THE CHARTER

154. As a result of their harmful impacts, employer-tying measures are also inherently dehumanizing.

155. The numerous times at which A.B. felt worthless as a result of the abuses, exploitation and psychological harassment he was subjected to, with no ability to escape, are illustrative of this deprivation of human dignity.

156. In his concurring reasons in *Kav LaOved*, Vice-President Emeritus M. Cheshin of the Supreme Court of Israel explicitly linked restrictive employment arrangements, similar to the employer-tying measures imposed in Canada under the Impugned Provisions and their predecessors, to a modern form of slavery:

> 4. […] Every human being — even if he is a foreigner in our midst — is entitled to his dignity as a human being. Money is divisible. Dignity is not divisible. This is true of both the dignity and the liberty of the workers.
>
> Indeed, we cannot avoid the conclusion — a painful and shameful conclusion — that the foreign worker has become his employer's serf, that the restrictive arrangement with all its implications has hedged the

> foreign worker in from every side and that the restrictive arrangement has created a modern form of slavery. In the restrictive arrangement that the state itself determined and applied, it has pierced the ears of the foreign workers to the doorposts of their employers and bound their hands and feet with bonds and fetter to the employer who 'imported' them into Israel. It is nothing less than this. The foreign worker has changed from being a subject of the law — a human being to whom the law gives rights and on whom it imposes obligations — into an object of the law, as if he were a kind of chattel. The arrangement has violated the autonomy of the workers as human beings, and it has de facto taken away their liberty. According to the restrictive arrangement, the foreign workers have become work machines — especially in view of the fact that the employers have allowed themselves, unlawfully, to transfer them from one employer to another — and they have become likes slaves of old, like those human beings who built the pyramids or pulled oars to row the ships of the Roman Empire into battle.
>
> [our emphasis]

157. In the same vein, the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences (the "**U.N. Special Rapporteur**"), upon completing his country visit to Canada, stated on September 6th, 2023 that certain categories of employer-tied migrant workers "*are made vulnerable to contemporary forms of slavery in Canada*" as appears from a copy of his End of Mission Statement, communicated as Exhibit P-12 to the Application.

158. In essence, "closed" work permits strip migrant workers of their autonomy and dignity, confining workers to a state of serfdom.

159. Accordingly, the imposition of employer-tying measures by the Government of Canada has at all times deprived temporary foreign workers of their human dignity and constituted cruel and unusual treatment.

160. Since April 17th, 1982, such employer-tying measures, and the provisions authorizing them, including the Impugned Provisions, have been inconsistent with section 12 of the *Charter*.

161. This breach of section 12 of the *Charter* cannot be justified in a free and democratic society pursuant to section 1 of the *Charter*.

E. EMPLOYER-TYING MEASURES ARE INCONSISTENT WITH PARAGRAPH 15(1) OF THE *CHARTER*

162. As further explained at paragraphs 176 to 187 of the Application, the incorporation of employer-tying measures within the modern Canadian labour migration regimes was rooted in direct discrimination based on race, national or ethnic origin and colour.

163. Employer-tying measures continue to be imposed disproportionately on – and their harmful impacts to be felt disproportionately by – minorities characterized by their race, national or ethnic origin and colour, resulting in adverse impact discrimination against them.

164. The harmful impacts of employer-tying measures have the effect of perpetuating the disadvantages to which those minorities have long been subjected.

165. Consequently, employer-tying measures, and the provisions authorizing them, including the Impugned Provisions, have also been in violation of paragraph 15(1) of the *Charter* since it came into force on April 17th, 1985.

166. This breach of paragraph 15(1) of the *Charter* cannot be justified in a free and democratic society pursuant to section 1 of the *Charter*.

F. THE REMEDIES SOUGHT

i. A Declaration of the Impugned Provisions' Unconstitutionality

167. In light of the above-described Charter breaches and in accordance with section 52(1) of the *Constitution Act, 1982*, the Impugned Provisions are unconstitutional and of no force and effect.

ii. Damages Pursuant to Paragraph 24(1) of the *Charter*

168. However, in and of itself, a declaration of unconstitutionality would be insufficient to remedy the harm suffered by the Designated Member and the Class Members as a result of the employer-tying measures to which they were subjected.

169. An award of damages pursuant to paragraph 24(1) of the *Charter* constitutes an appropriate and just remedy to:

(a) compensate the Class Members for such harm and for the suffering and negation of dignity associated with the serious constitutional rights violations described above;

(b) vindicate the Class Members' *Charter* rights and the large-scale harm to Canadian society associated with binding migrant workers to their employers, as described in sections III.A and III.B. of the Application; and

(c) deter future *Charter* breaches through the adoption of regulatory provisions authorizing similar direct or indirect employer-tying measures, particularly in light of such measures' long-standing history.

170. An award of *Charter* damages is justified considering the gravity of the Government of Canada's conduct in relation to the use of employer-tying measures in the country, as explained below.

171. On the one hand, since their initial introduction in the 1960s, temporary foreign worker schemes have perpetuated, through employer-tying measures, the discriminatory policies that existed under the previous Canadian immigration system. When it introduced such measures, the Government of Canada showed a clear disregard for the affected workers' human rights and dignity, and for the foreseeable harm that employer ties would cause them.

172. On the other hand, faced with clear evidence of the harmful impacts described above, the Government of Canada has persisted in imposing employer-tying measures on foreign workers.

173. Therefore, both at the initial adoption of employer-tying measures in 1966 and by their subsequent maintenance, the Government of Canada has demonstrated a clear disregard for temporary foreign workers' rights and human dignity throughout this period.

a. A clear disregard for migrant workers' rights on the basis of discrimination

174. Until after the Second World War, Canadian immigration laws contained explicit provisions distinguishing between immigrants from "preferred" countries of origin immigrants from "non-preferred" countries of origin.

175. It was not until the 1960s that the Government of Canada began to dismantle its overtly discriminatory immigration laws and modified its immigration policy from being focused on the maintenance of a national identity to one based on longer-term economic interests.

176. At the same time as it removed overt discrimination from its immigration policy, the Government of Canada introduced other admission schemes which perpetuated the discriminatory effect of the former laws. In particular, it developed temporary admission schemes for foreign workers in caregiving and agricultural occupations.

177. The Government of Canada notably introduced a domestic worker recruitment program for Caribbean women in 1955 and subsequently the SAWP in 1966, initially for Jamaican agricultural workers only.

178. A hallmark of these schemes was their reliance on employer-tying measures.

179. The development of these schemes coincided with a shift in the demographics of the immigrants entering Canada to work in these occupations. They had previously included predominantly “white” immigrants. There were now increasing numbers of persons of colour.

180. These schemes were justified on the basis that the immigrants of certain races, colours, or ethnic or national origins were considered unable to assimilate to Canada’s climate and society and to be better-suited for “unfree” and low-skilled work, as explained in a 2021 IRCC Publication entitled “Racism, Discrimination and Migrant Workers in Canada: Evidence from the Literature” (at pp. 47-52), a copy of which is communicated as Exhibit P-13 to the Application, and as will be further established at trial.

181. In 1973, the NIEAP was introduced as a comprehensive regulatory framework for temporary foreign workers expressly based on specific employers’ labour needs.

182. By design and effect, the NIEAP responded to those needs by admitting low-skilled workers, generally from formerly “non-preferred” countries, as appears from Exhibit P-13 (at pp. 54-55).

183. It too had as a hallmark its use of employer-tying measures.

184. In point of fact, the employer-tying measures used in those schemes represented the continuation of the Government of Canada’s previous openly discriminatory immigration criteria.

185. As will be established at trial, the discriminatory attitudes underlying the introduction of employer-tying measures led the Government of Canada to disregard the foreseeable harm that they would cause the affected migrant workers.

b. A clear disregard for migrant workers’ rights on the basis of inaction despite acknowledged awareness

186. Secondly, the Government of Canada has acknowledged, on repeated occasions, that employer-tying measures involve an inherent power imbalance conducive to the abuse and ill-treatment of migrant workers.

187. Parliamentary committees have been instrumental in bringing evidence of abuse to the Government of Canada’s attention.

188. Two different House of Commons Standing Committees, namely the Standing Committee on Citizenship and Immigration (CIMM) in 2009 and the Standing Committee on Human Rights, Skills, Social Development and the Status of Persons with Disabilities (HUMA) have in fact specifically called for the elimination of employer-

specific work permit requirements from the temporary foreign worker regimes, as appears from the reports entitled "Temporary Foreign Workers and Non-status Workers" (CIMM, May 2009) and "Temporary Foreign Worker Program" (HUMA, September 2016) respectively communicated as Exhibit P-14 and Exhibit P-15 to the Application.

189. In 2019, the Government of Canada amended the *IRPR* to introduce a program allowing migrant workers demonstrably experiencing abuse or at risk of experiencing abuse to apply for open work permits upon meeting specific conditions.

190. In the context of those regulatory amendments, the Government of Canada underlined the particular risks and abuse faced by foreign workers on employer-specific permits, as appears from its Regulatory Impact Assessment Statement on the *Regulations Amending the Immigration and Refugee Protection Regulations*, SOR/2019-148, communicated as Exhibit P-16 to the Application.

191. The new open work permit for vulnerable workers does not provide an effective solution, as notably highlighted in the U.N. Special Rapporteur's End of Mission Statement (Exhibit P-14), and as will be further established at trial.

192. Among other things, this solution is ineffective as it requires workers to hold a valid work permit when their application is made. This makes the worker highly vulnerable to termination and loss of status should the employer find out about the application.

193. The mechanism also places the onus of proving the existence or potential existence of abuse on the migrant workers, who must submit documentary evidence, including affidavits. This is not feasible for workers whose off-duty hours and ability to travel away from their work place are limited and often strictly supervised by their employers.

194. The addition of the open work permit for vulnerable workers consequently has not mitigated the harmful impacts of employer-tying measures and employer-tied migrant workers' rights continue to be massively breached by the Government of Canada.

195. In 2021, the House of Commons Standing Committee on Citizenship and Immigration tabled its report entitled "Immigration Programs to Meet Labour Market Needs", communicated as Exhibit P-17 to the Application and stated among other things (at pp. 31-33) that "[t]*he vulnerability of temporary foreign workers is most clear in relation to their dependence on the employer to which their work permit and LMIA are connected*. […] *The Committee thus heard that temporary foreign workers may be exploited in Canada under the LMIA, because they lack the status and protections to challenge abuse by employers, consultants and recruitment agents.*"

196. Finally, as recently as September 6th, 2023, the U.N. Special Rapporteur stated, following his visit to Canada, that the TFWP constitutes a "*breeding ground for contemporary forms of slavery*", as appears in its End of Mission Statement (Exhibit P-14).

197. The U.N. Special Rapporteur notably recommended that the Government of Canada "[m]*odify the Temporary Foreign Workers Program to enable workers to choose employers freely without any restriction and discrimination*" (Exhibit P-12).

198. In the face of the clearly-documented and known harmful impacts of employer-tying measures and of direct calls in favour of discontinuing their use, the government's persistent reliance on such measures shows its clear disregard for the Class Members' constitutional rights.

199. The gravity of the Government of Canada's conduct far exceeds the minimum fault threshold for state liability for *Charter* damages in this case.

200. As a consequence of the above-described Charter violations and in light of the government's clear disregard for the Designated Member and other Class Members' rights, an award of damages under paragraph 24(1) of the Charter constitutes an appropriate and just remedy.

iii. Compensatory Damages in Private Law

201. Additionally, the servants of the Government of Canada, namely Canadian immigration officers and/or ESDC agents, have committed a fault (in Québec) and a tort (in the rest of Canada).

202. Canadian immigration officers and ESDC agents are civil servants whose faults or torts can give rise to vicarious Crown liability under subparagraphs 3(a)(i) and 3(b)(i) of the *Crown Liability Proceedings Act*, RSC 1985, c. C-50.

203. The relationship between these Government of Canada officers and the Class Members is such that the latter were entirely dependent on the former's decisions as to the issuance of work permits.

204. The demonstrated and documented harmful impacts of employer-tying-measures were reasonably foreseeable to the Government of Canada's agents.

205. The Government of Canada's agents owed a duty of care to the Class Members.

206. The agents systematically imposed employer-tying measures on the Class Members (a) where the Impugned Provisions and their predecessors did not require it; and (b)

where the harmful impacts of employer-tying measures rather required the agents to refrain from such an imposition.

207. The Government of Canada's servants' conduct constitutes systemic negligence in the operationalization of the Impugned Provisions and their predecessors.

208. Their systemic negligence breached the duty of care set out above and, in Québec, breached their general duty to abide by the rules of conduct incumbent on them, according to the circumstances, usage or law, so as not to cause injury to the Class Members.

209. The Government of Canada is liable for the damage caused by this fault, in Québec, and in respect of this tort, in the rest of Canada.

210. The harmful impacts suffered by A.B. as a result of this systemic negligence – and, more particularly, of A.B.'s six "closed" work permits constitute indemnifiable damage in Québec.

211. While A.B. did ultimately obtain his Canadian permanent residence, on or around December 8th, 2022, he never entirely recovered from the abuses he suffered during the time he was bound to his employers.

212. Physically, he continues to feel back pain on a daily basis.

213. From a mental health perspective, his life is now marked by recurring episodes of sadness, anxiety and depression, panic attacks, anger management issues, as well as feelings of emptiness, worthlessness or powerlessness, which interfere with his social relationships.

214. As a result of the foregoing, A.B. is entitled to an award of pecuniary and non-pecuniary compensatory damages, in an amount to be determined.

iv. Punitive Damages

215. The conduct of the Government of Canada and of its agents constitutes oppressive, arbitrary or unconstitutional action.

216. As a result of the foregoing, A.B. is entitled to an award of private law damages, in an amount to be determined.

IV. THE FACTS ON WHICH THE CLASS MEMBERS' CLAIMS AGAINST THE DEFENDANT ARE BASED

217. A.B.'s traumatic experience is not an isolated case.

218. All Class Members were subjected to employer-tying measures since the entry into force of the *Charter*.

219. For the reasons set out above, all such measures were inconsistent with the Class Members' rights under sections 7 and 12 and paragraph 15(1) of the *Charter*, and all of Class Members' *Charter* rights were clearly disregarded by the Government of Canada.

220. All Class Members suffered the harmful impacts of employer-tying measures.

221. Consequently, all Class Members are entitled, beyond declaratory relief, to an award of *Charter* damages as an appropriate and just reparation pursuant to paragraph 24(1) of the *Charter*.

222. Additionally, all Class Members were impacted by the Government of Canada's servants' systemic negligence in the operationalization of the Impugned Provisions and their predecessors.

223. All Class Members are therefore entitled to an award of pecuniary and non-pecuniary compensatory damages under private law and of punitive damages , in an amount to be determined.

224. As a result of the unique vulnerability which the Class Members experienced in consequence of the employer-tying measures to which they were subjected – and, in particular, their restricted capacity to assert their legal rights and to seek redress for violations thereof – the Class Members have been and remain incapable in fact of acting to commence proceedings against the Government of Canada.

225. Accordingly, the prescription or limitation period applicable to the Class Members' claims against the Defendant has not begun to run or, in the alternative, has been suspended or tolled since it began to run.

V. CONCLUSION

226. The Class Members' claims relate to the adoption and maintenance of a federal regulatory regime regarding the imposition of employer-tying measures on temporary foreign workers that applies in all provinces.

227. The impugned conduct of the Government of Canada and of its agents occurred across Canada.

228. The harmful impacts of employer-tying measures were suffered by Class Members across Canada.

229. The criteria to authorize the bringing of a national class action on behalf of the Class Members are met.

Copies of all pleadings already filed in the record are enclosed with this notice.

DO ACT ACCORDINGLY.

Montréal, October 17th, 2023

Davies Ward Phillips & Vineberg LLP

DAVIES WARD PHILLIPS & VINEBERG LLP
Counsel for the Applicant

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Mtre Guillaume Charlebois
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File : 287026

No. 500-06-001263-231

S U P E R I O R C O U R T

(Class Action Division)

District of Montréal

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS

Applicant

and

A.B.

Designated Member

v.

ATTORNEY GENERAL OF CANADA

Defendant

NOTICE TO THE ATTORNEY GENERAL OF QUÉBEC AND TO THE ATTORNEY GENERAL OF CANADA

ORIGINAL

DAVIES

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CANADA, PROVINCE DE QUEBEC
DISTRICT DE MONTREAL
COUR SUPÉRIEURE - RECOURS COLLECTIF
CAUSE : 500-06-001263-231

- RAPPORT DE SIGNIFICATION -

Je, soussigné(e), ANNABELLE LABRIE , Huissier de justice du Québec, ayant mon domicile professionnel au 407 Boul Saint-Laurent #700, MONTREAL, QC, CANADA, H2Y 2Y5, certifie sous mon serment professionnel que:

Le 18 octobre 2023 à 13:42 heures

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS
Applicant(s)
AND
A.B., DESIGNATED MEMBER

VS
ATTORNEY GENERAL OF CANADA & AL
Defendant(s)

J'ai signifié, à l'intention de son destinataire, LA COPIE CERTIFIÉE CONFORME de l'acte de procédure suivant PLEADINGS AND EXHIBIT(S) ENCLOSED WITH THE NOTICE TO THE ATTORNEY GENERAL OF QUEBEC AND TO THE ATTORNEY GENERAL OF CANADA, TAB A TO D & EXHIB ITS P-1 TO P-18 à:

ATTORNEY GENERAL OF QUEBEC, DIRECTION GENERALE DES AFFAIRES JURIDIQUES
1 RUE NOTRE-DAME E #8E ETAGE, MONTREAL, QC, CANADA, H2Y 1B6

EN LAISSANT AU BUREAU DE LA DIRECTION DU CONTENTIEUX, EN M'ADRESSANT À UNE PERSONNE AYANT LA GARDE DU LIEU, CONFORMÉMENT À L'ART. 126 C.P.C., LAQUELLE S'ÉTANT NOMMÉE COMME ÉTANT PATRICIA LEVESQUE.

SIGNIFICATION	23,00 $
KILOMETRE(S)	1,73 $
SOUS-TOTAL	24,73 $
TPS	1,24 $
TVQ	2,47 $
TOTAL	28,44 $

Autres frais :
(non admissible à l'état des frais)

GESTION E.J.'	15,00 $	(')
SOUS-TOTAL	15,00 $	
TPS	0,75 $	
TVQ	1,50 $	
TOTAL	17,25 $	

TOTAL AVANT TAXES	39,73 $
TPS	1,99 $
TVQ	3,96 $
TOTAL	45,68 $

J'ai apposé ma signature et mon cachet au verso de l'acte de procédure et indiqué la date et l'heure de la signification.

Distance autorisée: 1 kilomètre(s) Distance nécessairement parcourue: 1 kilomètre(s)
DISTANCE FACTURÉE: 1 kilomètre(s)

MONTREAL, ce 18 octobre 2023

Annabelle Labrie

ANNABELLE LABRIE , Huissier de justice (Permis: 1055)

DAVIES (C220996)

Inv. : 434937-1-1-1
(BE E618) H72 0 ML E1018 I1018-13:45
MARCELLE LEVESQUE

SE

a/s : ME JEAN-PHILIPPE GROLEAU & AL
v/d : 287026

Charron Boissé Lévesque, Huissiers de justice Inc.
407 Boul Saint-Laurent # 700
MONTREAL, QC, CA, H2Y 2Y5
Tél. : (514) 878-3143 Fax : (514) 954-9981
T.P.S. : 712514496 T.V.Q. : 1224785808

CANADA, PROVINCE DE QUEBEC
DISTRICT DE MONTREAL
COUR SUPÉRIEURE - RECOURS COLLECTIF
CAUSE : 500-06-001263-231

- RAPPORT DE SIGNIFICATION -

Je, soussigné(e), MARIE-PIER MARCEAU, Huissier de justice du Québec, ayant mon domicile professionnel au 407 Boul Saint-Laurent #700, MONTREAL, QC, CANADA, H2Y 2Y5, certifie sous mon serment professionnel que:

Le 18 octobre 2023 à 14:32 heures

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS
Applicant(s)
AND
A.B., DESIGNATED MEMBER

VS
ATTORNEY GENERAL OF CANADA & AL
Defendant(s)

J'ai signifié, à l'intention de son destinataire, LA COPIE CERTIFIÉE CONFORME de l'acte de procédure suivant PLEADINGS AND EXHIBIT(S) ENCLOSED WITH THE NOTICE TO THE ATTORNEY GENERAL OF QUEBEC AND TO THE ATTORNEY GENERAL OF CANADA, TAB A TO D & EXHIB ITS P-1 TO P-18 à:

ATTORNEY GENERAL OF CANADA, QUEBEC REGIONAL OFFICE, DEPARTMENT OF JUSTICE CANADA
200 BOUL RENE-LEVESQUE O #TOUR EST, 9E ETAGE, MONTREAL, QC, CANADA, H2Z 1X4

EN LAISSANT À SON ÉTABLISSEMENT D'ENTREPRISE, EN M'ADRESSANT À UNE PERSONNE QUI PARAÎT ÊTRE EN MESURE DE LE REMETTRE À UN DIRIGEANT OU À UN ADMINISTRATEUR DE LA PERSONNE MORALE OU À L'UN DE SES AGENTS, CONFORMÉMENT À L'ART. 125 C.P.C., LAQUELLE S'ÉTANT NOMMÉE COMME ÉTANT MARIE-FRANCE JEAN LOUIS, ADJOINTE.

SIGNIFICATION	23,00 $
SOUS-TOTAL	23,00 $
TPS	1,15 $
TVQ	2,29 $
TOTAL	26,44 $

J'ai apposé ma signature et mon cachet au verso de l'acte de procédure et indiqué la date et l'heure de la signification.

MONTREAL, ce 18 octobre 2023

MARIE-PIER MARCEAU, Huissier de justice (Permis: 1137)

DAVIES (C220996)

Inv. : 434937-1-2-1
(BE E618) H19 0 ML E1018 I1018-14:34
MARCELLE LEVESQUE

SE

a/s : ME JEAN-PHILIPPE GROLEAU & AL
v/d : 287026

Charron Boissé Lévesque, Huissiers de justice Inc.
407 Boul Saint-Laurent # 700
MONTREAL, QC, CA, H2Y 2Y5
Tél. : (514) 878-3143 Fax : (514) 954-9981
T.P.S. : 712514496 T.V.Q. : 1224785808

CANADA, PROVINCE DE QUEBEC
DISTRICT DE MONTREAL
COUR SUPÉRIEURE - RECOURS COLLECTIF
CAUSE : 500-06-001263-231

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS
Applicant(s)
AND
A.B., DESIGNATED MEMBER

VS
ATTORNEY GENERAL OF CANADA
Defendant(s)

- RAPPORT DE SIGNIFICATION -

Je, soussigné(e), ANNABELLE LABRIE , Huissier de justice du Québec, ayant mon domicile professionnel au 407 Boul Saint-Laurent #700, MONTREAL, QC, CANADA, H2Y 2Y5, certifie sous mon serment professionnel que:

Le 18 octobre 2023 à 13:42 heures

J'ai signifié, à l'intention de son destinataire, LA COPIE de l'acte de procédure suivant NOTICE TO THE ATTORNEY GENERAL OF QUEBEC AND TO THE ATTORNEY GENERAL OF CANADA à:

ATTORNEY GENERAL OF QUEBEC, DIRECTION GENERALE DES AFFAIRES JURIDIQUES
1 RUE NOTRE-DAME E #8E ETAGE, MONTREAL, QC, CANADA, H2Y 1B6

EN LAISSANT AU BUREAU DE LA DIRECTION DU CONTENTIEUX, EN M'ADRESSANT À UNE PERSONNE AYANT LA GARDE DU LIEU, CONFORMÉMENT À L'ART. 126 C.P.C., LAQUELLE S'ÉTANT NOMMÉE COMME ÉTANT PATRICIA LEVESQUE.

SIGNIFICATION	23,00 $
SOUS-TOTAL	23,00 $
TPS	1,15 $
TVQ	2,29 $
TOTAL	26,44 $

J'ai apposé ma signature et mon cachet au verso de l'acte de procédure et indiqué la date et l'heure de la signification.

MONTREAL, ce 18 octobre 2023

Annabelle Labrie

ANNABELLE LABRIE , Huissier de justice (Permis: 1055)

DAVIES (C220996)

Inv. : 434936-1-1-1
(BE E618) H72 0 ML E1018 I1018-13:46
MARCELLE LEVESQUE

SE

a/s : ME JEAN-PHILIPPE GROLEAU & AL
v/d : 287026

Charron Boissé Lévesque, Huissiers de justice Inc.
407 Boul Saint-Laurent # 700
MONTREAL, QC, CA, H2Y 2Y5
Tél. : (514) 878-3143 Fax : (514) 954-9981
T.P.S. : 712514496 T.V.Q. : 1224785808

CANADA, PROVINCE DE QUEBEC
DISTRICT DE MONTREAL
COUR SUPÉRIEURE - RECOURS COLLECTIF
CAUSE : 500-06-001263-231

- RAPPORT DE SIGNIFICATION -

Je, soussigné(e), MARIE-PIER MARCEAU, Huissier de justice du Québec, ayant mon domicile professionnel au 407 Boul Saint-Laurent #700, MONTREAL, QC, CANADA, H2Y 2Y5, certifie sous mon serment professionnel que:

Le 18 octobre 2023 à 14:32 heures

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS
Applicant(s)
AND
A.B., DESIGNATED MEMBER

VS
ATTORNEY GENERAL OF CANADA
Defendant(s)

J'ai signifié, à l'intention de son destinataire, LA COPIE CERTIFIÉE CONFORME de l'acte de procédure suivant NOTICE TO THE ATTORNEY GENERAL OF QUEBEC AND TO THE ATTORNEY GENERAL OF CANADA à:

ATTORNEY GENERAL OF CANADA, QUEBEC REGIONAL OFFICE, DEPARTMENT OF JUSTICE CANADA
200 BOUL RENE-LEVESQUE O #TOUR EST, 9E ETAGE, MONTREAL, QC, CANADA, H2Z 1X4

EN LAISSANT À SON ÉTABLISSEMENT D'ENTREPRISE, EN M'ADRESSANT À UNE PERSONNE QUI PARAÎT ÊTRE EN MESURE DE LE REMETTRE À UN DIRIGEANT OU À UN ADMINISTRATEUR DE LA PERSONNE MORALE OU À L'UN DE SES AGENTS, CONFORMÉMENT À L'ART. 125 C.P.C., LAQUELLE S'ÉTANT NOMMÉE COMME ÉTANT MARIE-FRANCE JEAN LOUIS, ADJOINTE.

KILOMETRE(S)	3,46 $
SIGNIFICATION	23,00 $
SOUS-TOTAL	26,46 $
TPS	1,32 $
TVQ	2,64 $
TOTAL	30,42 $

Autres frais :
(non admissible à l'état des frais)

GESTION E.J.'	15,00 $ (')
SOUS-TOTAL	15,00 $
TPS	0,75 $
TVQ	1,50 $
TOTAL	17,25 $

TOTAL AVANT TAXES	41,46 $
TPS	2,07 $
TVQ	4,14 $
TOTAL	47,67 $

J'ai apposé ma signature et mon cachet au verso de l'acte de procédure et indiqué la date et l'heure de la signification.

Distance autorisée: 2 kilomètre(s) Distance nécessairement parcourue: 2 kilomètre(s)
DISTANCE FACTURÉE: 2 kilomètre(s)

MONTREAL, ce 18 octobre 2023

MARIE-PIER MARCEAU, Huissier de justice (Permis: 1137)

DAVIES (C220996)

Inv. : 434936-1-2-1
(BE E618) H19 0 ML E1018 I1018-14:33
MARCELLE LEVESQUE

SE

a/s : ME JEAN-PHILIPPE GROLEAU & AL
v/d : 287026

Charron Boissé Lévesque, Huissiers de justice Inc.
407 Boul Saint-Laurent # 700
MONTREAL, QC, CA, H2Y 2Y5
Tél. : (514) 878-3143 Fax : (514) 954-9981
T.P.S. : 712514496 T.V.Q. : 1224785808

CANADA, PROVINCE DE QUEBEC
DISTRICT DE MONTREAL
COUR SUPÉRIEURE - RECOURS COLLECTIF
CAUSE : 500-06-001263-231

- RAPPORT DE DÉMARCHES -

Je soussigné(e), SAMUEL NEVES, Commissionnaire au 407 Boul Saint-Laurent #700, MONTREAL, QC, CANADA, H2Y 2Y5, certifie que:

Le 18 octobre 2023 à 16:12 heures

J'AI DÉPOSÉ L'ACTE DE PROCÉDURE SUIVANT

ASSOCIATION FOR THE RIGHTS OF HOUSEHOLD AND FARM WORKERS
Applicant(s)
AND
A.B., DESIGNATED MEMBER

VS
ATTORNEY GENERAL OF CANADA
Defendant(s)

NOTICE TO THE ATTORNEY GENERAL OF QUEBEC AND TO THE ATTORNEY GENERAL OF CANADA

À CET ENDROIT:

PALAIS DE JUSTICE - MONTREAL
1 RUE NOTRE-DAME E, MONTREAL, QC, CANADA, H2Y 1B6

Autres frais :
(non admissible à l'état des frais)

DEPOT E.J.	16,00 $
SOUS-TOTAL	16,00 $
TPS	0,80 $
TVQ	1,60 $
TOTAL	18,40 $

MONTREAL, ce 19 octobre 2023

SAMUEL NEVES, Commissionnaire

DAVIES (C220996)

Inv. : 434936-1-3-1
(BE E618) E718 0 ML E1018 I1019-09:06
MARCELLE LEVESQUE

a/s : ME JEAN-PHILIPPE GROLEAU & AL
v/d : 287026

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