

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

(Class Action)

No.: 500-06-000820-163

ASSOCIATION DES MEMBRES DE LA POLICE MONTÉE DU QUÉBEC Inc., domiciled at 1699 rue Principale, city of Saint-Blaise-sur-Richelieu, district of Iberville, province of Quebec, H3Z 2T2

and

CHARLES MANCER, domiciled and residing at 3421 St-Jacques, city of Montreal, district of Montreal, province of Quebec, H4L 1G9

and

PAUL DUPUIS, domiciled and residing at 28 rue Rolland, city of Saint-Jean sur Richelieu, district of Saint-Jean, province of Quebec, J2X 5S9

and

MARC LACHANCE, domiciled and residing at 161 des Abbesses, city of Vaudreuil-Dorion, district of Vaudreuil, province of Quebec, J7V 9X5

Applicants

v.

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

Respondent

JUDICIAL APPLICATION TO AUTHORISE CLASS ACTION PROCEEDINGS

0335532-0118-1426
2 000,00
2016-11-02
DROITS DE GREFFE
Gouvernement du Québec
Palais de Justice
MONTREAL

THE APPLICANTS RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

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

In these proceedings:

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

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

3. **The Class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees, including in a manner infringing any of their Charter Rights.
 - (i) **Linguistic Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees on the basis of their francophone (or other) linguistic affiliation.
 - (ii) **Freedom of Association Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other members or employees because of their role in advocating for Members' rights to freedom of association and right to form a union.

[2] The members of the Classes have variously suffered serious injury and seek all consequential moral and pecuniary damages including all damages related to psychological trauma, mental illness, post traumatic stress disorder, out-of pocket expenses, loss of income, loss of

opportunity for advancement, loss or reduction of pension benefits, moral damages, punitive damages and damages assessed under section 24 of the Charter.

II. PARTIES

THE APPLICANTS

The AMPMQ: Association des membres de la Police Montée du Québec Inc.

- [3] The **Association des membres de la Police Montée du Québec Inc.** (the “AMPMQ”) is an association which defends the rights of RCMP members of C Division (Quebec) and those of francophone members across Canada.
- [4] The AMPMQ represents the majority of RCMP members in C Division and francophone members across Canada.
- [5] For more than 40 years the AMPMQ and its predecessors have been advocating for the rights of the RCMP members of C Division and francophone members across Canada.
- [6] The AMPMQ's efforts include a long standing track record of advocacy in support of all Members' rights to freedom of association and unionization, the defence of linguistic rights, the support and defence of all RCMP Members in general who are the victims of harassment, bullying, reprisals, abusive disciplinary proceedings and the abuse of power by superiors and management.
- [7] The AMPMQ supported the *Delisle* case (*Delisle v. Canada (Attorney General)* [1999] 2 SCR 989) through its then President Gaëtan Delisle, and acted as intervener in first instance through to the Supreme Court proceedings which culminated in the historic decision of *Mounted Police Association of Ontario v. Canada (Attorney General)*, [2015] 1 SCR 3.
- [8] The decision in *Mounted Police Association of Ontario v. Canada (Attorney General)* recognizes RCMP Members' rights to freedom of association and access to collective bargaining. In its reasons, the Supreme Court also recognizes that the RCMP and its management has a longstanding history of systemic harassment practices and abuse of power, as a means to curtail or prevent free association and union activity by the Members.
- [9] The AMPMQ has also been instrumental in the support or defence of members through other proceedings including:
- (a) *Saumier c. Gendarmerie royale du Canada*, (2009) CAF 51;
 - (b) *Thériault c. A.G. Canada*, 2006 CAF 61;
 - (c) *Parent c. Officier compétent de la Gendarmerie royale du Canada* (2002) 16, D.A. (3e) 58;
 - (d) *Delisle c. Canada (Procureur général)* [1998] R.J.Q. 2751 (C.S.);
 - (e) *Girardeau v. Canada (Procureur général)* [1997] 127 F.T.R. 20;
 - (f) *Delisle c. Officier compétent de la Gendarmerie royale du Canada*, (1995) 30 D.A. (2^e) 1;
 - (g) *Delisle c. Canada (Procureur général)* [1993], 67 F.T.R. 213 (F.C.T.D.);

- (h) *Delisle c. Canada* (1990) 29 F.T.R. (C.F.);
- (i) *Gendarmerie royale du Canada c. L'Association des membres de la division "C"*, [1986] D.L.Q. 450 (1986) 14 C.L.R.B.R. (N.S.) 46;

Corporal Charles Mancer

[10] Mr. Charles Mancer is the Vice-President of the AMPMQ.

[11] He joined the RCMP in 2000 and holds the rank of Corporal. He is also a member of the Law Society of Upper Canada.

[12] For more than ten (10) years, Mr. Mancer has been advocating for the rights of RCMP Members to associate freely and to be free from harassment and discrimination based on linguistic affiliation.

[13] As a direct result of his advocacy and his linguistic origin, Mr. Mancer has been:

- (a) subject to harassment and discrimination, including the misuse of disciplinary proceedings as reprisals from senior officers and management; and
- (b) denied promotions and career advancement opportunities within the RCMP.

[14] Accordingly, Mr. Mancer has suffered serious prejudice and injuries including anxiety, insomnia and pressure to resign his position in order to avoid any further harassment and injury to his well-being and health.

Mr. Paul Dupuis

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

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

[17] Mr. Dupuis was subject to a systemic campaign of harassment, reprisals and discrimination based on his association activities and advocacy for Members' linguistic and other rights.

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

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

[20] This campaign of reprisals is partly documented in the decision of the RCMP External Review

Committee dated September 8, 2016, in which the President of the Committee concludes that *“les faits liés aux événements de novembre 2005, tels qu'ils sont décrits dans le dossier, suffisent pour établir, selon la prépondérance des probabilités, que le répondant a pris des mesures contre [M. Dupuis] parce que celui-ci avait déposé le grief G-487, et j'estime que ces mesures constituent des mesures de représailles au sens [de la loi]”* (at para. 71). A copy of said decision is communicated herewith as **Exhibit R-1**.

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

Constable Marc Lachance

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

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

[24] His illness is a direct result of the harassment, reprisals and discrimination he suffered at the hands of senior officers and RCMP management over a period of several years very shortly after he was hired.

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

[26] The long and torturous history of Mr. Lachance's harassment, reprisals and discrimination by colleagues and abuse of power by superiors is documented and evidenced by three (3) decisions of Assistant Commissioner Francois Deschenes, dated October 19 20165, copies of which are annexed hereto as **Exhibits R-2, R-3 and R-4**.

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

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

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

THE DEFENDANT

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

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

III. THE FACTS ALLEGED JUSTIFY THE CONCLUSIONS SOUGHT

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

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

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

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

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

- (a) use reasonable care to ensure the well-being of its Members;
- (b) provide safe workplace environment free from harassment, reprisals discrimination and abuse of authority on any grounds but in particular or charter protect right such as linguistic affiliation and advocacy for freedom of association and unionization;

- (c) provide equal employment and advancement opportunities to its members, regardless of their linguistic origin and regardless of their advocacy regarding freedom of association and union related activities;
- (d) establish and enforce appropriate policies, codes, guidelines and procedures to ensure all of the above-mentioned obligations;

[36] However, the Defendant employer and the RCMP breached all the above-cited obligations; such breaches constitute negligence.

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

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

[39] And, in at least one documented case, members of the Class were subjected to harassment/reprisals because their spouse refused to submit to RCMP harassment and abusive disciplinary proceedings (see *Lebrasseur* as cited below).

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

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

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

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

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

- (b) *Sulz v. Attorney General et al*, 2006 BCSC 99, a copy of this decision is communicated herewith as **Exhibit R-8**;
- (c) *Attorney General of Canada et al. v. Smith*, 2007 NBCA 58, a copy of this decision is communicated herewith as **Exhibit R-9**;
- (d) *Merrifield v. Attorney General*, 2008 CanLII 34227 (ONSC), a copy of this decision is communicated herewith as **Exhibit R-10**;
- (e) *Lebrasseur v. Canada (Attorney General)*, 2010 FC 98 CanLII, a copy of this decision is communicated herewith as **Exhibit R-11**; and
- (f) *D'Angelo v. Attorney General of Canada*, 2014 FC 1120, a copy of this decision is communicated herewith as **Exhibit R-12**.

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

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

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

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

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

"(...) the Task Force received numerous complaints about the discipline process from members of the Force. In the view of many members, it has

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

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

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

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

The following management practices were criticized continually:

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

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

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

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

[50] All of the above mentioned conduct and the RCMP's failure to respect its duties constitute a civil fault, a breach of the contractual and Charter Rights of the members of the Classes, an abusive exercise of discretion and power by the RCMP and its management, and furthermore, is in breach of the RCMP's general obligations towards its Members as well as section 37 of the RCMP Act.

[51] Consequently, the members of the Classes have variously suffered serious injury and seek all consequential moral and pecuniary damages including all damages related to psychological trauma, mental illness, post traumatic stress disorder, out-of pocket expenses, loss of income, loss of opportunity for advancement, loss or reduction of pension benefits, punitive damages and damages assessed under section 24 of the Charter.

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

[52] Applicants respectfully submit that the following common or related questions of law and fact arise from the allegations contained in these proceedings:

- (a) Did the Defendant employer and the RCMP, its management and senior officers, owe the members of the Classes a duty to respect their Charter Rights and to provide a work environment exempt from harassment, reprisals, discrimination or abusive use of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?
- (b) Did the Defendant employer and the RCMP, its management and senior officers, owe the members of the Classes a duty to prevent harassment, reprisals, bullying, discrimination and abuse of authority based on the Members linguistic affiliation or freedom of association and unionization advocacy?
- (c) Did the Defendant employer and the RCMP, its management and senior officers, wrongful conduct cause or give rise to consequential damages that can be recouped by the members of the Classes and, if so, in what amount?
- (d) Did the Defendant employer and the RCMP, its management and senior officers, wrongful conduct cause or give rise to moral and/or punitive damages that can be recouped by the members of the Classes and, if so, in what amount?
- (e) Did the Defendant employer and the RCMP, its management and senior officers, wrongful conduct cause or give rise to damages under section 24 of the Charter that can be recouped by the members of the Classes and, if so, in what amount?

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

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

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

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

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

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

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

[54] There are numerous members of the Classes located throughout Canada some of whom are currently employed in the RCMP and some of whom are not.

[55] Given the number of potential members of the Classes and their geographic disposition, it would be difficult or impracticable to address the issues raised in these proceedings on an individual basis or by way of mandate.

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

[56] The AMPMQ has been involved in advocacy relating to the issues raised in these proceedings for decades and has been actively involved in the protection of its members from the types of harassment, bullying and discrimination addressed in these proceedings.

[57] The AMPMQ have prepared and presented briefs on these issues to several Parliamentary and Senatorial Committees, as well as to several inquiries into the RCMP (see for example R-13, the Brown Report).

[58] The AMPMQ have retained counsel and experts experienced in the subject matter of these proceedings.

[59] The individual Applicants have both suffered directly from the alleged harassment, reprisals and discrimination and have long been advocates militating against such practices. They have the knowledge, experience, dedication and time necessary to advance the class action proposed in these proceedings.

[60] Accordingly, the AMPMQ and the individual Applicants are well placed to represent Members of the Classes.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

AUTHORIZE the proposed class action;

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

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

(iii) **Linguistic Sub-class:** All current and former Members and Civilian Members of any gender identity residing in Canada who, in the performance of their duties at the time of their employment, suffered physical or psychological harassment, reprisals, discrimination and/or abusive exercise of power by other Members and employees on the basis of their francophone (or other) linguistic affiliation.

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

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

AUTHORIZE the following common question of fact and law:

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

unionization advocacy?

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

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

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

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

AUTHORIZE the following conclusions to the class action:

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

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

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

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

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

AND TO THIS END:

*DECLARE the Defendant liable for the cost of judicial and extra-judicial fees and disbursements, including fees for experts' reports and costs incurred in the present matter for and in the name of the Applicant and Class Members and **ORDER** collective recovery of these sums;*

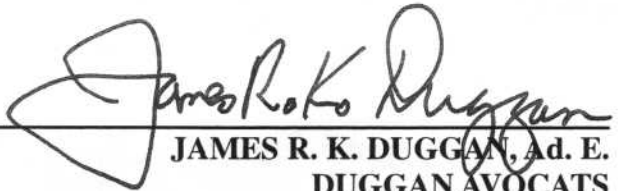
CONDEMN the Defendant to pay the Applicant and Class Members the above mentioned sums with interest at the legal rate, plus the additional indemnity provided by law, to accrue from the date of service of the present motion;

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

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

THE WHOLE WITH COSTS, including the cost of notices and experts' costs.

Montreal, November 2nd 2016


A horizontal line is drawn across the signature.

JAMES R. K. DUGGAN, Ad. E.
DUGGAN AVOCATS

Windsor Station
1100 Ave des Canadiens-de-Montréal
9th Floor
Montreal, Quebec
H3B 2S2

Tel: 514-879-1459

Fax: 514-879-5648

Email: james@dugganavocats.ca

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

(Class Action)

No.: _____

ASSOCIATION DES MEMBRES DE LA POLICE MONTÉE DU QUÉBEC Inc., domiciled at 1699 rue Principale, city of Saint-Blaise-sur-Richelieu, district of Iberville, province of Quebec, H3Z 2T2

and

CHARLES MANCER, domiciled and residing at 3421 St-Jacques, city of Montreal, district of Montreal, province of Quebec, H4L 1G9

and

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Applicants

v.

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


Respondent

**LIST OF EXHIBITS IN SUPPORT OF APPLICANTS'
JUDICIAL APPLICATION TO AUTHORISE CLASS ACTION PROCEEDINGS**

- Exhibit R-1** Decision of the RCMP External Review Committee dated September 8, 2016 in GRC file No. 487-10-07068;
- Exhibit R-2** Decision of Assistant Commissioner Francois Deschenes #1, dated October 19 2016;
- Exhibit R-3** Decision of Assistant Commissioner Francois Deschenes #2, dated October 19 2016;
- Exhibit R-4** Decision of Assistant Commissioner Francois Deschenes #3, dated October 19 2016;
- Exhibit R-5** *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1;
- Exhibit R-6** *Gingras v. Canada*, [1994] 2 FCR 734;
- Exhibit R-7** *Gustar v. Wadden*, 1993 CanLII 1558 (BC SC);
- Exhibit R-8** *Sulz v. Attorney General et al*, 2006 BCSC 99;
- Exhibit R-9** *Attorney General of Canada et al. v. Smith*, 2007 NBCA 58;
- Exhibit R-10** *Merrifield v. Attorney General*, 2008 CanLII 34227 (ONSC);
- Exhibit R-11** *Lebrasseur v. Canada (Attorney General)*, 2010 FC 98 CanLII;
- Exhibit R-12** *D'Angelo v. Attorney General of Canada*, 2014 FC 1120;
- Exhibit R-13** The RCMP Yesterday, Today and Tomorrow: An Independent Report concerning Workplace Issues at the Royal Canadian Mounted Police (the “**Duxbury Report**”);
- Exhibit R-14** Rebuilding the Trust: Task Force on Governance and Cultural Change in the RCMP, December 2007, (the “**Brown Report**”);
- Exhibit R-15** Rebuilding Bridges: Report on Consultation of Employees and Managers of the RCMP – C Division, November 5, 2008 (the “**Robichaud Report**”);
- Exhibit R-16** Final Report, published February 2013, by The Commission for Public Complaints Against the Royal Canadian Mounted Police (the “**Final Report**”);
- Exhibit R-17** RCMP culture of bullying at root of harassment allegations, commissioner says, CBC News, by Peter Zimonjic, February 23 2016;

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Montreal, November 2nd 2016



JAMES R. K. DUGGAN, Ad. E.
DUGGAN AVOCATS

Windsor Station
1100 Ave des Canadiens-de-Montréal
9th Floor
Montreal, Quebec
H3B 2S2

Tel: 514-879-1459

Fax: 514-879-5648

Email: james@dugganavocats.ca

NOTICE OF PRESENTATION
(articles 146 and 574 al. 2 N.C.P.C.)

TO: HER MAJESTY THE QUEEN / Attorney General of Canada

Complex Guy-Favreau,
Quebec Regional Office, Department of Justice
East Tower, 9th Floor
200 Rene-Levesque Boulevard West
Montreal, Quebec, H2Z 1X4

Defendant

TAKE NOTICE that Applicants' *Judicial Application to Authorize Class Action Proceedings* will be presented before the Superior Court at **1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date set by the coordinator of the Class Action chamber.

GOVERN YOURSELVES ACCORDINGLY

Montreal, November 2nd 2016


A handwritten signature in black ink, appearing to read 'James R. K. Duggan', is written over a horizontal line.

JAMES R. K. DUGGAN, Ad. E.
DUGGAN AVOCATS
Windsor Station
1100 Ave des Canadiens-de-Montréal
9th Floor
Montreal, Quebec
H3B 2S2

Tel: 514-879-1459

Fax: 514-879-5648

Email: james@dugganavocats.ca

SUMMONS

(Articles 145 and following C.C.P)

TAKE NOTICE that the Plaintiff has filed this originating application in the office of the Superior Court of Quebec district of Montreal.

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

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

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.

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.

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.

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.

In support of the originating application, the plaintiff intends to use the following exhibits:

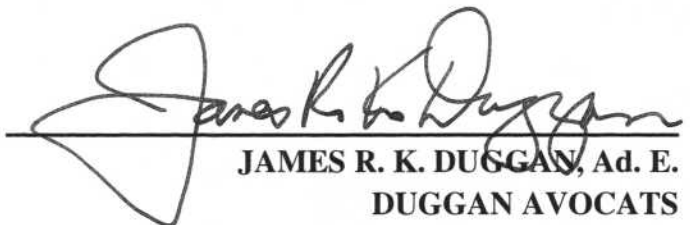
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These exhibits are available on request.

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in the 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.

Montreal, November 2nd 2016



JAMES R. K. DUGGAN, Ad. E.

DUGGAN AVOCATS

Windsor Station

1100 Ave des Canadiens-de-Montréal

9th Floor

Montreal, Quebec

H3B 2S2

Tel: 514-879-1459

Fax: 514-879-5648

Email: james@dugganavocats.ca

No.:

(CLASS ACTION)

Court:

SUPERIOR COURT

District:

MONTREAL

**ASSOCIATION DES MEMBRES DE LA
POLICE MONTÉE DU QUÉBEC Inc. et al.**

Applicants

-vs-

1-107

HER MAJESTY THE QUEEN

Defendant

**JUDICIAL APPLICATION TO AUTHORIZE
CLASS ACTION PROCEEDINGS
(Articles 571 and following C.C.P.)**

COPY

DUGGAN AVOCATS

Windsor Station

1100 Ave. des Canadiens-de-Montreal

9th Floor

Montréal (Québec) H3B 1R2

Tél.: 514-879-1459

Fax: 514-879-5648

ME JAMES R. K. DUGGAN, Ad. E.

james@dugganavocats.ca

Code: AD9534

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