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CANADA

**SUPERIOR COURT  
(Class Action)**

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup>:  
500-06-000912-184

**CLAIRE PLAMONDON** who elected domicile at  
hers lawyers office at 10 Notre Dame East  
street, Suite 200, Montreal, Quebec, H2Y 1B7;

*Applicant*

-vs-

**THE ATTORNEY GENERAL OF CANADA,**  
Quebec Regional Office Department of justice  
Canada Guy Favreau Complexe east Tower, 9<sup>th</sup>  
Floor 200 René Lévesque Boulevard West  
Montréal Québec H2Z 1X4;

*Defendant*

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**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO  
APPOINT A REPRESENTATIVE APPLICANT  
(Art. 574 C.C.P. and following)**

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**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE APPLICANT  
STATES THE FOLLOWING:**

**GENERAL PRESENTATION**

1. The Applicant wishes to institute a class action on behalf of the following group, of which she is a member, namely:
  - All current and former female residents of Quebec who have been or are enlisted in the Canadian Armed Forces and have experienced sexual abuse, sexual harassment as well as gender based discrimination;

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Gouvernement du Québec  
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Gouvernement du Québec  
DROITS DE GREFFE  
**MERCHANT**  
LAW GROUP LLP

(referred to herein as "Group Member(s)", "Group Member(s)", the "Group", the "Group", the "Member(s)");

The Defendant

2. The Defendant, The Attorney General of Canada, is the legal representative of the Government of Canada, and the Canadian Armed Forces, pursuant to *The Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50.;

General Facts:

3. The Applicant, and Group Members, are former or current female Canadian Armed Forces ("CAF") members who have experienced sexual harassment and sexual abuse as well as gender based discrimination;
4. The discriminatory and sexualized culture in the CAF is caused by the leadership's failure to implement appropriate policies to properly train its members and to identify, report, investigate and properly resolve incidents of sexual assault or sexual harassment. Furthermore, women who report incidents suffer from negative consequences which discourages further reporting;
5. As a result, sexual assault, sexual harassment and gender based discrimination are pervasive in the CAF causing tremendous harm, fear, humiliation and degradation. Women in the CAF are denied equality and equal protection and benefit under the law and the conduct violates basic standards, including section 7 and 15 of the Canadian Charter of Rights and Freedoms. These conditions and their severe, detrimental impact arose and persisted due to the defendant's breach of its duty of care and fiduciary;

6. The Defendants are liable *inter alia* to the Applicant for:
- Sexual abuse and gender based harassment visited upon them;
  - Tolerate the sexual abuse and gender based harassment in their internal operations;
  - Destroying group members' sense of self- worth;
  - Permitting the circumstances which resulted in the sexual abuse and gender based harassment to which group members were subject;
7. The behavior of the Defendant and its servants constitute a criminal offence when we talk about sexual assault;
8. The CAF is poisoned by a discrimination and sexualized culture that condones and encourages sexual assault and sexual harassment;
9. As a result of the acts by the Defendant, The Applicant and members of the group have experienced extremely traumatic situations that have sometimes resulted in post-traumatic syndrome (PTSD) ;
10. The Defendant' s agents were paid to ensure that CAF operations were conducted in an appropriate manner and with respect of the fundamental rights of military women;
11. The Applicant and group claim that the Defendant are vicariously liable for the actions and negligence of the Defendant's agents;
12. In the alternative, the Applicant claims that the cause of the sexual assaults and harassment and surrounding circumstances were within the knowledge and control of the Defendants and the physical and sexual assaults would not have occurred but for the negligence of the Defendant;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT**

13. The Applicant, Claire Plamondon is now a resident of a suburb of Montreal;
14. The Applicant enrolled in the military in February 1984. She was in Chilliwack for basic officer training for 14 weeks, followed by further training in Borden, Ontario;
15. The Applicant was in July 1984 posted to CFB Bagotville in Quebec, where she met the first colonel that took advantage of her;
16. After that event, the Applicant was then posted in Halifax for two years where a doctor kissed her by force. She mentioned the incident to the hospital Warrant Officer without any repercussion ;
17. The Applicant after was move to Moose Jaw for three years, where a Major who was a surgeon made her life a nightmare by harassing her, she reported the events but she never got any fallow back;
18. The Applicant now suffer from PTSD and suffers a lot of repercussions on her personal and professional life;
19. As a consequence of the foregoing, the Applicant is justified in claiming damages;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

20. Every member of the group of all persons, that have suffered injury, economic loss, and damages as a result of the Defendants' acts, omissions, wrong doings, and breaches of legal duties and obligations, including but not limited to, sexual abuse, physical abuse, gender based discrimination, breach of duty of care, breach of fiduciary duty and obligations, negligence, and failure to fulfill their statutory and common law duties and obligations.
21. Each Member of the Group is justified in claiming at least one or more of the following:

- a) Damages for loss of income, including future income;
- b) Damages attributable to loss of pension income and benefits;
- c) Damages attributable to loss of employment benefits and future benefits;
- d) Damages for physical, emotional and psychological harm;
- e) Damages for mental distress and loss of enjoyment of life;
- f) Recovery of health care costs;
- g) And such further and other damages as this Court may be advised.

22. All of these damages to the Group Members are a direct and proximate result of the Defendant's conduct;

**CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

**The composition of the group makes the application of Article 59 or 67 C.C.P. impractical or impossible for the reasons detailed below:**

- 23. The number of persons included in the Group is estimated to be in the thousands. According to the National Defence's own statistics filed as **Exhibit 1**, there are 14,434 active female members in the CAF as of January 2018;
- 24. The names and addresses of all persons included in the Group are not known to the Applicant but are known to the Defendant;
- 25. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Defendant. Even if the Group Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of

the factual and legal issues raised by the conduct of Defendant would increase delay and expense to all parties and to the Court system;

26. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Member of the Group to obtain mandates and to join them in one action;
27. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Group to effectively pursue their respective rights and have access to justice;

**The questions of fact and law which are identical, similar, or related with respect to each of the Group Members:**

28. The recourses of the Group Members raise identical, similar or related questions of fact or law, namely:
  - a) Did the Defendant fail to establish and enforce adequate policies, codes, guidelines and management and operations procedures to ensure that the plaintiff and the class members would be free from sexual assault?
  - b) Did the Defendant permit practices which denied employment training and advancement opportunities to the plaintiffs and the class members on the basis of their gender?
  - c) Did the Defendant fail to provide adequate or any training and education programs for CAF employees regardless the dangerous and harmful nature of sexual assault, harassment and gender based discrimination?
  - d) Did the Defendant fail in general to take proper and reasonable steps to promote the universal understanding among all CAF employees that sexual assault, harassment and gender based discrimination are dangerous and harmful?

- e) Did the Defendant permits workplace environment that normalized and condoned the occurrence of sexual assaults, harassment and gender based discrimination?
  - f) Did the Defendant fail to supervise the conduct of CAF employee's agents and servants properly so as to prevent the plaintiffs and the class members from being exposed to sexual assault, harassment and gender based discrimination?
  - g) Is the Defendant liable to pay compensatory damages to Group Members stemming from their actions?
  - h) What are the categories of damages for which the Defendant is responsible to pay to Group Members, and in what amount?
  - i) Is the Defendant liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?
29. The interests of justice favour that this motion be granted in accordance with its conclusions;

**NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

30. The action that the Applicant wishes to institute for the benefit of the members of the Group is an action in damages for liability;
31. The conclusions that the Applicant wishes to introduce by way of a motion to institute proceedings are:

**GRANT** Applicant's action against Defendant;

**ORDER** for an aggregate monetary award respecting all or any part of a Defendant's liability to group members including an Order that Group Members share in the award on an average or proportionate basis, and an award applying any undistributed award for the benefit of Group Members

**ORDER and CONDEMN** general and special damages for the Group in amounts to be determined at trial, including:

- (a) On the elections of the Applicant and Group Members, the:
  - (i) the value of damages that can be attributed to sexual assaults;
  - (ii) the value of damages attributed to gender based discrimination; or
  - (iii) the value of damages that can be attributed to harassment;
- (b) physical and psychological damages;
- (c) mental distress;
- (d) recovery of health care costs.

**CONDEMN** Defendant to reimburse to the Group Members any costs or fees paid in relation to the counselling;

**CONDEMN** Defendant to pay compensatory damages to the Group Members for the sexual assaults, harassment and gender based discrimination;

**CONDEMN** Defendant to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**GRANT** the class action of Applicant on behalf of all the Members of the Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil



Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

32. Applicant suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a) Many Group Members are domiciled in the District of Montreal;
  - b) The Defendant has a business establishment in the District of Montreal;
  - c) Many of the abuses were suffered by Group Members in District of the Montreal;
  - d) The Applicant's counsel is domiciled in the District of Montreal;
33. The Applicant, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group, since Applicant:
- a) Was sexually abused and suffered harassment and gender based discrimination and is thus a Member of the Group;
  - b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Group;
  - c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Group attorneys in this regard;
  - d) is ready and available to manage and direct the present action in the interest of the Group Members that the Applicant wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Group;
  - e) does not have interests that are antagonistic to those of other members of the Group;

- f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
- g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Group and to keep them informed;

34. The present motion is well-founded in fact and in law;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present motion;

**AUTHORIZE** the bringing of a class action in the form of a motion to institute proceedings in damages;

**ASCRIBE** the Applicant the status of representative of the persons included in the Group herein described as:

- All current and former female residents of Quebec who have been or are enlisted in the Canadian Armed Forces and have experienced sexual abuse, sexual harassment as well as gender based discrimination;

(referred to herein as "Group Member(s)", "Group Member(s)", the "Group", the "Group", the "Member(s)")

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Did the Defendant fail to establish and enforce adequate policies, codes, guidelines and management and operations procedures to ensure that the plaintiff and the class members would be free from sexual assault?

- b) Did the Defendant permit practices which denied employment training and advancement opportunities to the plaintiffs and the class members on the basis of their gender?
- c) Did the Defendant fail to provide adequate or any training and education programs for CAF employees regardless the dangerous and harmful nature of sexual assault, harassment and gender based discrimination?
- d) Did the Defendant fail in general to take proper and reasonable steps to promote the universal understanding among all CAF employees that sexual assault, harassment and gender based discrimination are dangerous and harmful?
- e) Did the Defendant permit workplace environment that normalized and condoned the occurrence of sexual assaults, harassment and gender based discrimination?
- f) Did the Defendant fail to supervise the conduct of CAF employee's agents and servants properly so as to prevent the plaintiffs and the class members from being exposed to sexual assault, harassment and gender based discrimination?
- g) Is the Defendant liable to pay compensatory damages to Group Members stemming from their actions?
- h) What are the categories of damages for which the Defendants are responsible to pay to Group Members, and in what amount?
- i) Is the Defendant liable to pay any other compensatory, moral, punitive and/or exemplary damages to Group Members, and if so in what amount?

**IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

**GRANT** Applicant's action against Defendant;

**ORDER** for an aggregate monetary award respecting all or any part of a Defendant's liability to group members including an Order that Group

Members share in the award on an average or proportionate basis, and an award applying any undistributed award for the benefit of Group Members

**ORDER and CONDEMN** general and special damages for the Group in amounts to be determined at trial, including:

- (a) On the elections of the Applicant and Group Members, the:
  - (i) the value of damages that can be attributed to sexual assaults;
  - (ii) the value of damages attributed to gender based discrimination;
  - (iii) the value of damages that can be attributed to harassment;
- (b) physical and psychological damages;
- (c) mental distress;
- (d) recovery of health care costs.

**CONDEMN** Defendant to reimburse to the Group Members any costs or fees paid in relation to the counselling;

**CONDEMN** Defendant to pay compensatory damages to the Group Members for the harm due to the sexual assaults, harassment and gender based discrimination that they have suffered;

**CONDEMN** Defendant to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**GRANT** the class action of Applicant on behalf of all the Members of the Group;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and

that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;


**DECLARE** that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

**ORDER** the publication of a notice to the Members of the Group in accordance with Article 579 C.C.P.;

**THE WHOLE** with costs to follow.

**MONTREAL, March 19, 2018**



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**MERCHANT LAW GROUP LLP**  
Attorneys for the Applicant

**SUMMONS**  
(Articles 145 and following C.C.P.)

**Filing of a Judicial Application**

Take notice that the Applicant has filed this Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative in the office of the Superior Court of Quebec in the judicial district of Montreal.

**Defendants' Answer**

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame Street Est, Montréal, Québec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

**Failure to Answer**

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

**Content of Answer**

In your answer, you must state your intention to:

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

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

**Change of judicial district**

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

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

**Transfer of Application to Small Claims Division**

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

**Calling to a case management conference**

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

**Exhibits supporting the application**

In support of the Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative, the Applicant intends to use the following exhibits:

**Exhibit-1** National Defence statistics on female members

These Exhibits are available upon request.

**Notice of presentation of an application**

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

Montreal, March 19, 2018

  
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**Merchant Law Group LLP**  
**10 rue Notre Dame Est, suite 200**  
**Montréal (Québec) H2Y 1B7**  
**Phone : 514-842-7776**  
**Fax : 514-842-6687**  
**Notifications : rdupont@merchantlaw.com**  
**Attorneys for the Applicant**




**NOTICE OF PRESENTATION**  
**(Articles 146 and 574 al.2 C.P.C.)**

**TO: THE ATTORNEY GENERAL OF CANADA**  
Quebec Regional Office - Department of justice Canada  
Guy Favreau Complexe  
East Tower, 9<sup>th</sup> Floor  
200 René Lévesque Boulevard West  
Montréal, Québec H2Z 1X4

**TAKE NOTICE** that the present FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO APPOINT A REPRESENTATIVE PLAINTIFF will be presented before one of the Honourable Judges of the Superior Court of Québec, at the Montreal courthouse, located at 1, rue Notre-Dame Est, in the city and District of Montréal, on the date set by the coordinator of the class actions chamber.

**PLEASE ACT ACCORDINGLY.**

Montreal, March 19, 2018.

  
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**Merchant Law Group LLP**  
Attorneys for the Applicant