

**CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL**

**SUPERIOR COURT  
(Class Action)**

**NO: 500-06-000952-180**

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**WOLF WILLIAM SOLKIN**

Plaintiff

vs.

**THE ATTORNEY GENERAL OF CANADA**

-and-

**THE ATTORNEY GENERAL OF QUEBEC**

-and-

**THE CENTRE INTÉGRÉ UNIVERSITAIRE  
DE SANTÉ ET DE SERVICES SOCIAUX DE  
L'OUEST-DE-L'ÎLE DE MONTRÉAL**

Defendants

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**ATTORNEY GENERAL OF CANADA'S  
MOTION TO STRIKE ALLEGATIONS AND EXHIBITS  
(Art. 169 C.c.p ; Sections 4 and 5 of the  
*Parliament of Canada Act*, R.S.C., 1985, c. P-1)**

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**TO THE HONOURABLE JUSTICE JOHANNE BRODEUR, THE ATTORNEY  
GENERAL OF CANADA RESPECTFULLY SUBMITS AS FOLLOWS:**

1. On February 19, 2019, this Court granted the Plaintiff authorization to institute a civil liability class action against the Attorney General of Canada, the Attorney General of Quebec, and the Centre intégré universitaire de santé et de services sociaux de l'Ouest-de l'Île-de-Montréal, seeking damages allegedly incurred by Veterans as a result of Ste. Anne Hospital's transfer to the provincial government ;

2. The Attorney General of Canada acts for the Minister of Veterans Affairs in the present proceedings ;
3. On April 11, 2019, the Plaintiff served its Originating Application on the Attorney General of Canada ;
4. The Plaintiff communicated in support of his Originating Application exhibits P-7 and P-8, attached in appendix A of the present motion ;
5. Exhibits P-7 and P-8 are two reports issued by the Subcommittee on Veterans Affairs of the Standing Senate Committee on Social Affairs, Science and Technology ("the Subcommittee") in March 1998 and February 1999, examining the state of health care in Canada concerning veterans of war and Canadian Service persons ;
6. Allegations 41 to 55 of the Originating Application either directly cite or paraphrase statements, conclusions and recommendations taken from these two reports ;
7. The Attorney General of Canada applies to strike exhibits P-7 and P-8, as well as allegations 41 to 55 of the Originating Application, on the grounds that they are protected by parliamentary privilege and otherwise contain hearsay and opinions ;

**EXHIBITS P-7 AND P-8 ARE PROTECTED BY PARLIAMENTARY PRIVILEGE**

8. In *Canada (House of Commons) v. Vaid*, [2005] 1 SCR 667 at para 29, the Supreme Court defined the Parliamentary privilege as "*the sum of the privileges, immunities and powers enjoyed by the Senate, the House of Commons and provincial legislative assemblies, and by each member individually, without which they could not discharge their functions*" ;

9. Although Parliamentary privilege flows from the British constitutional order, it has been incorporated in the general and public law of Canada by the *Parliament of Canada Act*, R.S.C., 1985, c. P-1;
10. Parliamentary privilege protects, among others, freedom of speech during proceedings in Parliament, that is, during the workings of the Senate, the House of Commons and their committees ;
11. Parliamentary privilege not only applies to Parliamentarians, but also extends to statements made during proceedings, and thus to witnesses in committee ;
12. Consistent case law has concluded that reports commissioned by and for the Senate are covered by parliamentary privilege and therefore cannot be produced in court proceedings ;
13. Exhibits P-7 and P-8 are two reports prepared by the Subcommittee on Veterans Affairs of the Standing Senate Committee on Social Affairs, Science and Technology in March 1998 and February 1999 ;
14. These reports, and the allegations of the Originating Application reproducing extracts of the said reports, are clearly protected by parliamentary privilege and are consequently inadmissible in the present proceedings ;
15. As a result, exhibits P-7, P-8, and allegations 41 to 55 of the Originating Application should be struck out ;

**ALTERNATIVELY, EXHIBITS P-7 AND P-8 CONSTITUTE HEARSAY AND OPINIONS**

16. Exhibits P-7 and P-8, and their extracts cited in allegations 41 to 55 of the Originating Application constitute hearsay ;
17. Allegations 41 to 55 suggest the Plaintiff's intention to have exhibits P-7 and P-8 prove the truth of their content, thereby attempting to use the reports to establish

liability, as it appears from the Plaintiff's conclusion at allegation 55 of the Originating Application :

*"In light of the foregoing it is patently clear that [the Minister of Veterans Affairs] was aware of the issues historically associated with these transfers to the provinces and should therefore have instituted specific measures and/or a specific plan to ensure that the exceptional level of care and services provided to the Veterans at [Ste. Anne Hospital] would be maintained"*

18. These reports clearly cannot be admitted in evidence for such purposes ;
19. In addition, the reports not only contain hearsay, but also a series of opinions, conclusions and recommendations made by the Subcommittee with respect to the state of healthcare in Canada concerning veterans ;
20. The reports are irrelevant to the determination of the Defendants' civil liability before this Court ;
21. Exhibits P-7 and P-8 as well as allegations 41 to 55 of the Originating Application should therefore be struck out ;
22. Proportionality all the more commands striking exhibits P-7 and P-8 at this preliminary stage of the proceedings in order to limit the scope of the debate and ensure the fair administration of justice.

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


**ORDER** the striking of exhibits P-7 and P-8 in support of the originating application;

**ORDER** the striking of allegations 41 to 55 of the originating application;

**ORDER** the Plaintiff to file an amended Originating Application so as to not reproduce exhibits P-7 and P-8, and the allegations struck by the judgment to be rendered, within fifteen (15) days of the said judgment;

**THE WHOLE** with costs to follow suit.

Montreal, June 21, 2019

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

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**TAKE NOTICE** that the application *Attorney General of Canada's Motion to strike allegations and Exhibits* will be presented before the Superior Court at **1, Notre-Dame Street East, in Montreal, Quebec, H2Y 1B6**, on **July 23, 2019**, at a time and a Courtroom to be determined subsequently.

**PLEASE ACT ACCORDINGLY**

Montreal, June 21, 2019

  
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**SUPERIOR COURT**  
Class Action – District of Montréal

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**THE CENTRE INTÉGRÉ UNIVERSITAIRE DE SANTÉ ET  
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Defendants

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**ATTORNEY GENERAL OF CANADA'S  
MOTION TO STRIKE ALLEGATIONS AND EXHIBITS**  
(art. 169 C.C.P.)

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**ORIGINAL**

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