

AMENDED THIS July 4/2016 PURSUANT TO
RÈGLEMENT DE CONFORMÉMENT À
 RULE/LA RÈGLE 28.02 ("B")

THE ORDER OF _____
L'ORDONNANCE DU _____
DATED / FAIT LE _____

Court File No.: CV-16-543895-00CP

Antony Miller
REGISTRAR GREFFIER
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

J.K.

Plaintiff

- and -

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$20,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding

dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: November 4, 2015

Issued by "J. YIN"
Local registrar

Address of court office 393 University Ave.
Toronto, ON M5G 1E6

TO: **HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF ONTARIO**
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Toronto, ON M5G 2K1
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CLAIM

1. The Plaintiff claims:
 - (a) an order certifying this proceeding as a class proceeding and appointing the Plaintiff as the representative Plaintiff;
 - (b) a declaration that the Defendant breached its fiduciary duty to the Plaintiff and the Class through the establishment, funding, operation, management, administration, supervision and/or control of the Facilities (defined below);
 - (c) a declaration that the Defendant is liable to the Plaintiff and the Class for the damages caused by its breach of its common law duty in relation to the establishment, funding, operation, management, administration, supervision and/or control of the Facilities;
 - (d) a declaration that the Defendant has violated the Plaintiff's and Class members' rights under sections 7, 9 and/or 12 of the *Canadian Charter of Rights and Freedoms*;
 - (e) a declaration that the practices and/or failures of the Defendant in the care and custody of the Plaintiff and Class members constitute cruel, inhumane and degrading treatment or punishment contrary to section 12 of the *Canadian Charter of Rights and Freedoms*;
 - (f) damages or such other remedy as the Court may consider just and appropriate pursuant to section 24 of the *Canadian Charter of Rights and Freedoms*;
 - (g) damages for negligence and breach of fiduciary duty in the amount of \$100 million, or such other sum as this Honourable Court may find appropriate;
 - (h) punitive damages in the amount of \$25 million;
 - (i) prejudgment and postjudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

- (j) costs of the action on a substantial indemnity basis or in an amount that provides full indemnity to the Plaintiff;
- (k) the costs of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to section 26 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6; and,
- (l) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Under the watch of the Province of Ontario, children are regularly subjected to lengthy periods of solitary confinement. This practice constitutes cruel, degrading and inhuman punishment and is wholly inappropriate for children in all circumstances.

3. This solitary confinement (or as it is euphemistically referred to by the Crown, ‘Secure Isolation’) takes place in Ontario's Youth Justice Facilities (“**Facilities**”, further defined below) while children are under the Crown’s exclusive control and care.

4. Throughout the history of the operation of the Facilities, those caring for children have treated them with utter disregard and indifference.

5. The Defendant’s legislated mandate is to rehabilitate, rather than punish, the children under its care in the Facilities. The Crown’s policies and practices with regards to the use of solitary confinement cause it to fail in this mandate and are contrary to its duty to promote the reasonable well-being of children

THE PARTIES

6. The Plaintiff, J.K., is a resident of Ontario. While he was a minor, J.K. was incarcerated at: the Genest Detention Centre for Youth in London, Ontario; the Sprucedale Youth Centre in Simcoe, Ontario; and the Roy McMurry Youth Centre in Brampton, Ontario. While incarcerated, J.K. was subject to lengthy periods of solitary confinement on a regular basis.

7. The Defendant, Her Majesty the Queen in right of the Province of Ontario (the “**Crown**”) is named in these proceedings pursuant to the provisions of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P. 27.

8. The Crown, through and with its agents, servants and employees, was at all material times responsible for the operation, funding and supervision of the Facilities pursuant to Canadian *Youth Criminal Justice Act*, S.C. 2002 c. 1 and the Ontario *Child and Family Services Act*, R.S.O. 1990, c. C. 11. The Ministry of Children and Youth (the “**Ministry**”) is solely responsible for the care of the children living or incarcerated in the Facilities.

9. The following institutions shall be referred to collectively as the Facilities:

- (a) Bluewater Youth Centre;
- (b) Portage Youth Centre;
- (c) Craigwood Youth Services (Woodview Unit);
- (d) JJ Kelso Centre;
- (e) Near North Youth Centre;
- (f) Pinegar Youth Centre;
- (g) Sundance;
- (h) Donald Doucet Youth Centre;
- (i) Kennedy House Youth Services;
- (j) Genest Detention Centre For Youth;
- (k) Ge-Da-Gi Binez Youth Centre;
- (l) Peninsula Youth Centre;
- (m) Arrell Youth Centre;
- (n) Justice Ronald Lester Youth Centre;

- (o) Ray of Hope (Hope Manor);
- (p) Brookside Youth Centre;
- (q) Cecil Fader Youth Centre;
- (r) William E. Hay Youth Centre;
- (s) Sprucedale Youth Centre;
- (t) Syl Apps Youth Centre;
- (u) Roy McMurtry Youth Centre;
- (v) Sterling B. Campbell House; and,
- (w) York Detention Centre.

10. Many of the Facilities are operated directly by the Ministry, however, some are operated by transfer payment agencies which are non-profit organizations, using Crown funds and with Crown oversight. It is alleged that the Crown owes the same duty of care and fiduciary duty to children residing or incarcerated in all Facilities.

11. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all other persons who, while under the age of 18, were subjected to solitary confinement at one of the Facilities between January 1, 2007 and the present day (the “Class” or “Class Members”).

MISTREATMENT OF CHILDREN – SOLITARY CONFINEMENT

12. Solitary confinement is the practice of locking a person in a specially designated room or cell to isolate him or her from others for an extended period of time.

13. Substantial health problems develop when a person is subjected to solitary confinement, including anxiety, depression, anger, worsening of pre-existing medical conditions, lethargy, insomnia, palpitations, anorexia, increased risk of self-harm and suicide, as well as harmful and permanent changes in brain activity.

14. There are unique issues with regards to solitary confinement for young people. Time passes more slowly for children, and solitary confinement impacts brain structure, development and long-term function. Children are more vulnerable than adults causing greatly exaggerated negative impacts from solitary confinement.

15. International organizations such as Human Rights Watch, the World Health Organization and the United Nations have issued strong condemnation of the use of solitary confinement on juveniles. For example, Rule 67 of the 1990 United Nations *Rules for the Protection of Juveniles Deprived of Their Liberty* expressly states:

All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health of the juvenile concerned.

The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated as recently as 2011:

With respect to young people, ‘the Special Rapporteur holds the view that the imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman or degrading treatment and violates Article 7 of the *International Covenant on Civil and Political Rights* and article 16 of the *Convention Against Torture*.

STATUTORY 'AUTHORITY' UNDER THE ACT

16. Under the Ontario *Child and Family Services Act*, R.S.O. 1990, c. C. 11 (the “Act”), solitary confinement is only to be employed in the Facilities in circumstances where a child’s conduct indicates that he or she is likely in the immediate future to cause serious property damage or serious bodily harm to another person. It can only be used when no less restrictive method of restraining the child is practicable. Once the crisis has subsided, the child must be immediately removed from solitary confinement.

17. Depending on whether the child is under 16 years of age, or over 16 years, different rules apply regarding maximum time periods spent in secure isolation. Children under 16 cannot be held in secure isolation for more than eight hours in one day or 24 hours in any week. Children over 16 years old can only be held in solitary confinement continuously for

up to 72 hours (three days), however, a provincial director may approve a longer period in solitary confinement.

18. Children must be advised of their right of access to the Provincial Advocate for Children and Youth or a lawyer when they are placed in solitary confinement.

19. In practice, the Crown and its agents regularly breach the Act and its regulations. The Crown and its agents:

- (a) keep children in solitary confinement long after a 'crisis' has passed;
- (b) place children in solitary confinement when there is no threat to others or property;
- (c) in the case of children under 16, regularly hold them in isolation for longer than 8 hours a day or 24 hours per week;
- (d) do not advise children of their rights to contact the Provincial Advocate for Children and Youth or a lawyer when they are placed in solitary confinement;
- (e) deny children access to the Provincial Advocate for Children and Youth or a lawyer when they request it;
- (f) in the case of children over 16, regularly hold them in solitary confinement for more than 72 hours without regional director approval;
- (g) apply their discretion improperly in determining the length of a child's stay in solitary confinement; and,
- (h) in the case of the provincial director, apply improper discretion in approving stays of over 72 hours for children over 16.

20. Throughout the class period, the staff and administrators at the Facilities treated the Class Members with contempt, prejudice and indifference. They subjected the Class Members to extended periods of unlawful solitary confinement, ignoring the significant

negative impacts that such conditions would have on them. These failures were caused exclusively by the failures of the Defendant including the failure to create, implement and approve adequate policies to protect Class Members and the failure to oversee and inspect the Facilities.

21. The exposure of children to solitary confinement for any period beyond what is contemplated by the Act and its regulations is, in all circumstances, unacceptable, inappropriate and actionable. The policies of the Crown in this regard, and/or the lack thereof, are improper and any carrying out of such policies does not constitute an acceptable exercise of discretion by the Crown.

KNOWLEDGE OF THE CROWN

22. The Crown knew or ought to have known of the extensive and improper use of cruel, inhuman and degrading punishments, such as the use of extended periods of solitary confinement on children at the Facilities.

23. In 2012, the Ontario Auditor General released a report highlighting that in many of the Facilities, solitary confinement was being improperly used. Specifically, solitary confinement was being used more often, and for longer periods, in some of the Facilities than in others. Recognizing that solitary confinement was being employed improperly and recklessly, the Auditor General recommended that the Ministry of Children and Youth Services:

...identify behaviour management techniques other than secure isolation that have been used successfully by agency-operated facilities to prevent or manage undesirable behaviour...

24. In 2013, the Ontario Provincial Advocate for Children and Youth released a report entitled "*It Depends Who's Working. The Youth Reality at the Roy McMurtry Youth Centre*" in which concerns were raised about:

- (a) "quiet and calm" youth were not being released from solitary confinement per Act requirements;
- (b) staff were not properly exploring alternatives to solitary confinement;
- (c) solitary confinement being used as a consequence of poor behaviour;

- (d) the majority of youth were refused contact with the Provincial Advocate for Children and Youth's Office, contrary to the Act, after being subjected to solitary confinement;
- (e) the majority of youth were not advised of their rights to contact the Provincial Advocate for Children and Youth's office, after being subjected to solitary confinement; and,
- (f) youth complained of lack of food, unsanitary cells and improper withholding of items that would facilitate the practice of religion while being held in solitary confinement.

25. In 2015, the Ontario Advocate for Children and Youth released a report titled *It's A Matter of Time: Systemic Review of Secure Isolation in Ontario Youth Justice Facilities*. In it, many concerns about the use of solitary confinement at the Facilities were raised. For example, the report stated:

...it is recognized that young people's brains continue to develop into their mid-twenties. Indeed, the protections of a youth criminal justice system reflect an international acceptance of the immature brain of the adolescent. Considered a critical time period for mental health, adolescence is a stage marked by vulnerability. Substantial evidence from the research on the use of secure isolation with adults documents the harmful effects of prolonged isolation.... the use of secure isolation with adolescents presents considerable risk. Such an intrusive and risky intervention must only be used with heightened safeguards...

26. Despite the above reports' findings and recommendations, the Crown has continued to use solitary confinement in an inappropriate and unreasonable manner, with an absence of adequate policies and/or oversight to control its use.

THE CROWN'S FIDUCIARY DUTY

27. All children who resided or were incarcerated at the Facilities were under the authority and care of the Crown, with the Crown as their guardian, and were persons to whom the Crown owed fiduciary duties. These duties included, but were not limited to, the duty to ensure the safety and reasonable care of Class Members, the duty to protect Class Members from harm while residing or incarcerated at the Facilities and the duty to protect the Class from intentional torts perpetrated on them while at the Facilities.

28. Class Members had a reasonable expectation that the Crown would act in their best interests with respect to their care and in the operation of the Facilities by virtue of the following:

- (a) the involvement of the Crown in establishing, operating and overseeing the Facilities;
- (b) the long standing dependence of Class Members on the Crown;
- (c) the fact that the Class Members were children;
- (d) the fact that the Facilities' environment were themselves further disabling to Class Members, physically, emotionally and psychologically; and,
- (e) the vulnerabilities of many Class Members as many of them suffer from psychological and psychiatric disabilities and illnesses of varying degrees.

29. At all material times, the children who resided and/or were incarcerated at the Facilities were entirely and exclusively within the power and control of the Crown and were subject to the unilateral exercise of the Crown's power or discretion. By virtue of the relationship between these children and the Crown, being one of trust, reliance and dependence by the Class Members, the Crown owed a fiduciary duty to ensure that children were treated respectfully, fairly, safely and in all ways consistent with the obligations of a party standing *in loco parentis* to an individual under their care or control.

30. As result of its sole jurisdiction over the operation and oversight of the Facilities, the Crown owed a fiduciary duty to the Class Members which includes, but is not limited to the duty to exercise its unilateral discretion properly and effectively and in the best interests of the children, taking into consideration the Class Members' vulnerability and the Crown's relative position of power, trust and control in the relationship.

THE CROWN BREACHED ITS FIDUCIARY DUTY TO THE CLASS

31. The Crown operated or caused to be operated the Facilities whose residents, including the Plaintiff and the other Class Members, were regularly subjected to cruel, inhuman and degrading punishment in the form of solitary confinement. The Crown knew

of, or was wilfully blind to, the use of solitary confinement and the negative impacts this practice would have on Class Members.

32. The Class Members were entitled to rely and did rely upon the Crown, to their detriment, to fulfill its fiduciary duty. The particulars of the Crown's breach of its fiduciary duty include, but are not limited to:

- (a) failing to take a proper and good faith interest in the operation and supervision of the Facilities, despite its quasi-parental, or *in loco parentis*, role in respect of the children under its responsibility;
- (b) using of solitary confinement for extended periods on the Class Members;
- (c) failing to ensure that physical, emotional and psychological harm would not befall the Class Members;
- (d) failing to protect Class Members from persons, things or acts that would endanger or be injurious to their health and well-being;
- (e) putting its own interests, and those of its employees, agents and other persons under its supervision, ahead of the interests of Class Members;
- (f) failing to properly supervise the Facilities, including their administration and activities;
- (g) failing to properly, effectively and in good faith supervise the Facilities and the conduct of its employees and agents to ensure that Class Members would not suffer harm;
- (h) failing to provide proper and reasonable treatment for Class Members after being subjected to solitary confinement;
- (i) failing to provide a safe environment, and in particular, one free from physical, emotional and psychological harm;

- (j) failing to provide adequate financial resources or support to properly care and provide for Class Members;
- (k) failing to respond adequately, or at all, to complaints or recommendations which were made concerning the Facilities with regards to the use of solitary confinement on children; and,
- (l) failing to safeguard the psychological, physical and emotional needs of the Class.

33. The Class Members suffered damages as a result of the above-noted breaches, the particulars of which are set out in paragraphs 45 to 53, below.

THE CROWN'S DUTY OF CARE

34. The Crown created, planned, established, set up, initiated, operated, controlled, oversaw and/or regulated the Facilities during the class period.

35. Amongst other things, the Crown was solely responsible for:

- (a) the management, operation and administration of the Ministry during the class period;
- (b) the administration of the Act as well as any other statutes relating to youth justice facilities and all regulations promulgated under these statutes during the class period;
- (c) the promotion of the health, safety and well-being of Class Members during the class period;
- (d) properly and effectively supervising the Facilities and the conduct of its agents and employees to ensure that Class Members would not suffer unreasonable harm;

- (e) decisions, procedures, regulations promulgated, operations and actions taken by the Ministry, its employees, servants, officers and agents and its predecessors during the class period;
- (f) the construction, operation, maintenance, ownership, financing, administration, supervision, inspection, oversight and/or auditing of the Facilities during the class period;
- (g) the care and supervision of all members of the Class while they resided at or were incarcerated in the Facilities during the class period and for the supply of all the necessities of life to Class Members, *in loco parentis*, during the class period; and,
- (h) inspection and supervision of the Facilities and all activities that took place therein during the class period.

36. The Crown owed a common law duty to the Class Members as a result of its relationship of proximity. The harm and damages suffered by the Class Members were reasonably foreseeable as a result of the Crown's acts and omissions, constituting a breach of the common law duty.

THE CROWN'S NEGLIGENCE

37. The Crown breached its duty of care to Class Members in its establishment, operation, regulation, financing, supervision and/or control of the Facilities.

38. The Crown breached its common law duties to the Class through its negligent failure to properly supervise the operations and staff of the Facilities. Furthermore, in many circumstances, the policies themselves do not constitute a *bona fide* operation of discretion and are grossly unreasonable and negligent under the circumstances.

39. In particular, the Crown acted negligently by:

- (a) subjecting Class Members to solitary confinement;

- (b) failing to ensure that Class Members have access to a lawyer and/or the Provincial Advocate for Children and Youth once placed in solitary confinement;
- (c) failing to recognize that extended periods in solitary confinement constitute cruel, degrading or inhuman punishment;
- (d) failing to ensure that Class Members are removed from solitary confinement in a timely fashion in order to avoid permanent injury;
- (e) allowing for the over-reliance on solitary confinement as a deterrent within the Facilities;
- (f) failing to investigate or report ongoing harm suffered by Class Members;
- (g) failing to set or implement standards of conduct for its employees and agents to ensure that no employee or agent would endanger the health or well-being of any Class Member;
- (h) failing to implement adequate policies for recognizing and reporting potential harm to Class Members via use of solitary confinement;
- (i) failing to adequately supervise the Facilities, including their administration and activities;
- (j) failing to provide policies or frameworks by which discretion can be properly exercised to adequately, properly and effectively supervise the conduct of its employees, representatives and agents to ensure that the Class Members would not suffer unreasonable harm;
- (k) failing to use reasonable care to ensure the safety, well-being and protection of Class Members;
- (l) failing to properly exercise discretion in determining an appropriate length of time for Class Members to spend in solitary confinement;

- (m) failing to respond adequately, or at all, to complaints or recommendations which were made concerning the Facilities and their use of solitary confinement;
- (n) failing to provide proper and reasonable medical and/or psychological/psychiatric treatment for Class Members after learning of their exposure to solitary confinement;
- (o) failing to ensure that Class Members' religious practices and rights during incarceration in solitary confinement are respected; and,
- (p) permitting unhealthy and inappropriate punishments to be perpetrated against the Class.

40. The Class Members suffered damages as a result of the Crown's negligence, the particulars of which are set out in paragraphs 45 to 53, below.

BREACHES OF THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

41. The conditions particularized above violate the basic human rights of the Class Members and, as such, constitute a violation of their rights under Sections 7 and 12 of the *Charter of Rights and Freedoms* ("*Charter*").

42. The Plaintiff states that the conditions at the Facilities during the class period violate the rights of clasPlaintiffs members to be held in custody in a humane and safe facility and, as such, constitute cruel, inhumane and degrading treatment or punishment contrary to Section 12 of the *Charter*. Further, the conditions at the Facilities and the conduct of the Defendant violate the right of the Class to life, liberty and security of the person, contrary to section 7.

43. The Plaintiff states that the over-reliance on solitary confinement constitutes arbitrary restraint or detention and as such constitutes a breach of Section 9 of the *Charter*.

44. The Plaintiff pleads that the Class is entitled to damages pursuant to Section 24(1) of the *Charter*.

DAMAGES SUFFERED BY THE CLASS

45. The Plaintiff's claim, and the claim of each Class Member, is limited to the amount of the Plaintiff's or other Class Member's damages that would be apportioned to the Defendant in accordance with the relative degree of fault that is attributable to the Defendant's negligence. The Plaintiff's claim is against the Defendant for those damages that are attributable to its proportionate degree of fault, and he does not seek, on his own behalf or on behalf of the Class, any damages that are found to be attributable to the fault or negligence of any other person, or for which the Defendant could claim contribution or indemnity.

46. The Crown knew, or ought to have known, that as a consequence of its operation, care and/or control of the Facilities in breach of its fiduciary duty, in a negligent manner and in a manner that infringed upon the Class's *Charter* rights, the Class would suffer immediate and long-term physical, mental, emotional, psychological and spiritual harm.

47. Members of the Class were traumatized by their experiences arising from their attendance and residence at the Facilities. As a result of the Crown's breach of its fiduciary duty and its negligence, the Class Members suffered and continue to suffer damages which include, but are not limited to the following:

- (a) emotional, physical and psychological harm;
- (b) impairment of mental and emotional health and well-being;
- (c) impaired mental development;
- (d) impaired ability to participate in normal family affairs and relationships;
- (e) alienation from family members;
- (f) depression, anxiety, emotional distress and mental anguish;
- (g) development of new mental, psychological and/or psychiatric disorders;
- (h) pain and suffering;

- (i) a loss of self-esteem and feelings of humiliation and degradation;
- (j) an impaired ability to obtain employment, resulting either in lost or reduced income and ongoing loss of income;
- (k) an impaired ability to deal with persons in positions of authority;
- (l) an impaired ability to trust other individuals or sustain relationships;
- (m) a requirement for medical or psychological treatment and counselling;
- (n) an impaired ability to enjoy and participate in recreational, social and employment activities;
- (o) loss of friendship and companionship; and,
- (p) the loss of general enjoyment of life.

48. As a result of these injuries, the Class Members have required and will continue to require further medical treatment, rehabilitation, counselling and other care. Class Members, or many of them, will require future medical care and/or rehabilitative treatment, or have already required such services, as a result of the Crown's conduct for which they claim complete indemnity, compensation and payment from the Crown for such services.

49. The Plaintiff pleads that the Crown is strictly liable in tort for the damages set out above as the Crown was aware that Class Members were being physically, emotionally and psychologically abused but permitted the abuse to occur. Further, the Crown is strictly liable in tort for the damages enumerated herein as the Crown was aware that its operation, management and control of the Facilities was in breach of all parental standards and in breach of the duties it owed to the Class Members.

50. Further, by virtue of its quasi-parental, or *in loco parentis*, responsibility for the safety, care and control of residents, the Crown is vicariously liable for the harms perpetrated upon residents by its employees, representatives and agents.

PUNITIVE/AGGRAVATED DAMAGES

51. The high-handed and callous conduct of the Crown warrants the condemnation of this Honourable Court. The Crown conducted its affairs with wanton and callous disregard for the Class Members' interests, safety and well-being. The Crown breached its fiduciary duty and duty of good faith owed to children incarcerated in the Facilities.

52. Over a period of years, the Plaintiff and the other Class Members were treated in a manner that could only result in significant mental and emotional impacts for vulnerable children. The cruel, inhuman and degrading punishments to which the Class Members were exposed have violated their rights and altered the paths of their lives.

53. In these circumstances, the Plaintiff and the other Class Members request aggravated or punitive damages.

November 4, 2015

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J.K.
Plaintiff

HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF ONTARIO
Defendant

Court File No.: CV-16-543895-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings under the *Class Proceedings Act*, 1992

**FRESH AS AMENDED
STATEMENT OF CLAIM**

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