

**FEDERAL COURT**



**PROPOSED CLASS PROCEEDING**

**ALIDA SATALIC**

Plaintiff

and

**THE ATTORNEY GENERAL OF CANADA**

Defendant

**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 a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served 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 for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date:

07 DECEMBER 2016  
J. Eliza S.

Issued by:  
(Registry Officer)

Elizabeth Caverly  
Director Directrice

Address of local office:

Federal Court  
1720-1801 Hollis Street  
Halifax, NS B3J 3N4

**TO: The Attorney General of Canada**  
284 Wellington Street  
Ottawa, ON K1A 0H8

**A. CLAIM****1. The plaintiff claims:**

- (a) an order certifying this action as a class proceeding and appointing the plaintiff as representative plaintiff for the class;
- (b) a declaration that the defendant breached its duty of care and fiduciary duty to the plaintiff and the class and violated the class's rights and freedoms set out in section 15 of the *Canadian Charter of Rights and Freedoms* in respect of its failures set out herein relating to its systemic surveillance, investigation, interrogation, harassment, and termination of members of the Canadian Armed Forces and the Department of National Defence as a result of their sexual orientation;
- (c) a declaration that the defendant is liable to the plaintiff and the class for the damages caused by its breach of its duty of care and fiduciary duty and its violation of the class's rights and freedoms set out in section 15 of the *Canadian Charter of Rights and Freedoms* in respect of its failures set out herein relating to its systemic surveillance, investigation, interrogation, harassment, and termination of members of the Canadian Armed Forces and the Department of National Defence as a result of their sexual orientation;
- (d) damages for the defendant's breach of its duty of care and breach of fiduciary duty and violation of the class's rights and freedoms set out in section 15 of the *Canadian Charter of Rights and Freedoms* in accordance with section 24(1) of the *Canadian Charter of Rights and Freedoms* in the amount of \$100 million, or such other sum as this Honourable Court may find appropriate;
- (e) punitive damages of \$50 million, or such other sum as this Honourable Court may find appropriate;
- (f) prejudgment and post judgment interest pursuant to the *Federal Courts Act*, R.S.C., 1985, c. F-7;
- (g) costs of the action on a substantial indemnity basis or in an amount that provides full indemnity;
- (h) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to Rule 334.38 of the *Federal Courts Rules*, SOR/98-106; and
- (i) such further and other relief as to this Honourable Court may seem just and appropriate in all the circumstances.

## B. OVERVIEW

2. Between the 1950s and the 1990s, the Canadian government engaged in a systematic campaign to identify, harass, and purge lesbians, gay men, and those suspected of being gay from the Canadian Armed Forces and the Department of National Defence.

3. As a result of their sexual orientation, lesbians, gay men, and those suspected of being gay in the Canadian Armed Forces and the Department of National Defence were systematically put under surveillance, investigated, interrogated, harassed, and denied security clearances. The Canadian Armed Forces put pressure on these individuals to leave the military service. Ultimately the employment of thousands of lesbians, gay men, and those suspected of being gay was terminated.

4. This campaign and its severe, detrimental impact on lesbians and gay men in the Canadian military services caused tremendous harm to an already vulnerable group. As a result of this purge, these persons were denied their basic human rights and suffered from a virtually unparalleled degree of humiliation. The purge campaign violated the essential dignity and freedom of the class members through the direct imposition of disadvantage, stereotyping and social prejudice.

5. Lesbians and gay men affected by this campaign were denied equality and equal protection and benefit under the law that violated even basic standards, including their rights and freedoms under section 15 of the *Canadian Charter of Rights and Freedoms*. These actions and their severe, detrimental impact arose and persisted due to the defendant's breach of its duty of care and fiduciary duty owed to the members of the class.

6. As a result of their sexual orientation, thousands of lesbians, gay men, and those suspected of being gay were directly affected by this campaign. Many people's lives and

livelihoods were destroyed. This dark chapter in Canadian history forms the subject-matter of this action.

### **C. THE PLAINTIFF AND THE CLASS**

7. The plaintiff Alida Satalic resides in Province of Nova Scotia. Ms. Satalic was a member of the Canadian Armed Forces from 1981 to 1989 and 1993 to 2010. She served as a postal clerk and postmaster. As more fully described below, in 1989 Ms. Satalic was forced to resign from Canadian Armed Forces because of her sexual orientation.

8. The plaintiff claims on behalf of themselves and on behalf of the following class:

All current and former members of the Canadian Armed Forces and the Department of National Defence who are or were stationed in Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador between 1969 to 1993 who were harassed, released, or terminated as a result of their sexual orientation.

### **D. THE EXPERIENCES OF THE PLAINTIFF**

9. Ms. Satalic enrolled in the Canadian Armed Forces in 1981 as a recruit at Canadian Forces Base ("CFB") Cornwallis in Deep Brook, Nova Scotia. She was transferred to CFB Borden, CFB Trenton and CFB Greenwood at various times during her employment as a postal clerk.

10. While she was a postal clerk at CFB Trenton, Ms. Satalic was repeatedly interrogated on the pretext of security screenings by the Special Investigation Unit. During these interrogations, Ms. Satalic was asked questions about her sexual orientation and was asked whether she knew any lesbians or gay men in the military. Upon admitting that she was a lesbian, Ms. Satalic was questioned about her intimate sexual encounters in graphic detail. These interrogations left Ms. Satalic feeling angry, humiliated, and helpless.

11. After admitting that she was gay, Ms. Satalic was told to see the Base Surgeon so the Base Surgeon could document that she "fulfilled the definition of homosexual".

12. Ms. Satalic was subsequently posted to CFB Greenwood and was given the option of either: (a) retention without any further career courses or promotions; or (b) accepting a release under 5(d) of the Queen's Regulations and Orders for the Canadian Forces ("Not Advantageously Employable"). Ms. Satalic accepted the 5(d) release, which was dated January 23, 1989.

13. Ms. Satalic re-enrolled in the Canadian Armed Forces in 1993 in Saint John, New Brunswick. However, as a result of losing 4 years of military service, her career trajectory and earning potential were limited and she suffered losses to her salary and pension from the Canadian Armed Forces.

14. Ms. Satalic's release from the Canadian Armed Forces had an immense impact on her life, her sense of self-worth, and her self-esteem. She continues to experience trust issues with authorities, fear of additional discrimination, anxiety, humiliation and anger.

#### **E. THE DEFENDANT**

15. The Defendant, the Attorney General of Canada, is the legal representative of the Canadian Armed Forces and Department of National Defence and at all material times hereto employed the representative plaintiff.

16. The Canadian Armed Forces operate pursuant to the *National Defence Act*, R.S.C., 1985, c.-5 and predecessor legislation.

17. From 1950 until the mid-1990s, the Canadian Armed Forces, including the Royal Canadian Navy, the Canadian Forces, the Canadian Army, the Royal Canadian Air Force, the

Defence Research Board, and the Department of National Defence, as the case may be, had a policy of discriminating against lesbians and gay men.

18. Gay men and lesbians were falsely depicted as security concerns because of their "weaknesses," unreliability," and "immoral" or "unethical" traits which were thought to make them vulnerable to blackmail and compromise. Gay men and lesbians were characterized by the defendant as suffering from an unreliable and unstable character which made them a threat to national security.

19. In response to purported security concerns, a Security Panel was established in Canada in 1946. In 1948, the Security Panel was granted broad investigative powers to investigate suspected lesbians and gay men and to set up a policy to target, limit, and terminate suspected lesbians and gays in the Canadian Armed Forces and Department of National Defence.

20. The Security Panel worked in secret. There was no opportunity for appeal or process for independent review arising from its actions or decisions. Individuals targeted by the Security Panel had no opportunity to defend themselves against allegations.

21. In the decades that followed, gay men and lesbians in the Canadian military service had reason to fear discovery and dismissal as thousands of individuals were terminated or transferred as a result of their actual or perceived sexual orientation. These terminations and transfers were carried out at the urging of the Security Panel.

22. The Canadian Armed Forces and Department of National Defence engaged in a systematic and sustained policy of investigating, harassing, and terminating employees who admitted to or were suspected of being gay or lesbians:

- (a) special squads of investigators were formed to identify gay men and lesbians in the military service and to inform appropriate department heads of those deemed to pose a security risk;
- (b) a surveillance campaign was used to collect information on lesbians, gay men, and those suspected to be homosexuals; and
- (c) the Canadian government sponsored research into the means to detect gay men and lesbians (the so-called "fruit machine").

23. The Canadian Armed Forces created a Special Investigation Unit to identify, harass, intimidate and terminate members of the Canadian Armed Forces and the Department of National Defence who were suspected of being, or admitted to being, homosexual. For decades beginning in the 1950s and continuing into the mid-1990s, the Special Investigation Unit harassed, intimidated and discriminated against the plaintiff and other members of the Canadian Armed Forces and the Department of National Defence who admitted to or were suspected of being lesbians or gay men.

24. When it was suspected that an employee of the Canadian Armed Forces or the Department of National Defence was a lesbian or a gay man, the following action was taken:

- (a) the individual was put under surveillance and investigated;
- (b) the individual was interrogated and asked specific, deeply personal questions regarding sexual orientation and sexual practices;
- (c) the individual was forced to reveal names of other lesbians or gay men;
- (d) the individual was threatened with criminal charges and incarceration;
- (e) the individual's badge, credentials and weapon were taken;
- (f) the individual was denied security clearances or their existing security clearance was withdrawn;
- (g) the individual was suspended from employment;
- (h) the individual was demoted to a less "sensitive" position;
- (i) pressure was placed on the individual to resign; and
- (j) the individual was discharged for being a gay man or a lesbian.



25. The loss of security clearance was a key part of the response to suspected lesbians and gay men in military ranks. Prior to being purged, such men or women would lose their security clearance and be thrown into employment limbo. Often, they were transferred to lower-level positions that did not require security clearance.

26. In many circumstances, the Special Investigation Unit would attend unannounced at a suspected individual's house. The target would be taken to an undisclosed location without the benefit of food, water, or counsel and he or she would be harassed, intimidated, and questioned until a confession was obtained. Once a confession was obtained, the individual would be pushed to name other gay men or lesbians, who would in turn be subjected to the same treatment. After confessions were obtained, the individuals were discharged from the military service.

27. Once identified as a lesbian or gay man, the target's employment files could be marked "Not Advantageously Employable," a life-long designation that permanently limited employment possibilities. The consequences of the military purge of gay men and lesbians had significant deleterious effects on the post-military employment of individuals that were targeted. Many people's lives and livelihoods were destroyed.

28. Other individuals identified as gay men or lesbians were not terminated, but would suffer other negative consequences for their real or perceived sexual orientation, including not receiving promotions, or being denied training courses required to advance in their careers.

29. In addition to the steps identified above, individuals identified as gay men or lesbians were subjected to harassment and humiliation by members of the Canadian Armed Forces and the Department of National Defence. Targeted individuals were ordered to move off military bases, were told not to attend social events or forms of entertainment, and asked not to socialize with friends. They were also subjected to name-calling and abuse by colleagues and superiors.

30. In 1968, the "Report of the Royal Commission on Security" (the "**McKenzie Report**") chaired by Maxell MacKenzie (the "**McKenzie Commission**") was submitted to the Canadian government. It mandated a confidential inquiry into the operation of Canadian security methods. The McKenzie Report recommended that a new Board be established to deal with appeals against security decisions to ensure that the rights of individuals had not been unnecessarily abrogated or restricted in the interests of security.

31. Although in 1969, an amendment to the *Criminal Code* made homosexual acts in private between two consenting adults legal in Canada, the Security Service continued to collect intelligence on gay men and lesbians and the purge continued.

32. A report entitled "Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police" (the "**McDonald Report**") dated 1981 chaired by Mr. Justice D.C. McDonald (the "**McDonald Commission**") stated that there had been a concerted effort on the part of the Security Service for over two decades to collect information on lesbians and gay men. The McDonald Report further stated that the data collection program was inconsistent with the proper role of a security intelligence agency. Finally, the McDonald Report stated:

- (a) "[t]hat such a programme has not been halted years ago is a striking illustration of an insensitivity about what the Security Service ought to be securing."
- (b) "We believe that the security intelligence agency should no longer systematically collect information on homosexuals [...]."
- (c) "Such collection programmes do not conform to the principles we established [...] for opening and maintaining files on individuals."

33. The McDonald Report also noted that there was still no right to appeal for individuals "who were transferred, or failed to obtain a promotion or position, or who had a contract terminated on security grounds," despite the Mackenzie Commission's recommendation.

34. The McDonald Commission did not order an inquiry into the organization of these campaigns, despite the McDonald Commission's findings and recommendations. The campaign continued in the Canadian military.

35. In 1982, the *Canadian Charter of Rights and Freedoms* guaranteed the plaintiff and the class members' equal treatment before and under the law and equal protection and benefit of the law without discrimination.

36. Throughout and after the 1980s and 1990s, military purges of lesbian and gay men continued. Suspected military members were followed on and off military bases. They were also subjected to arbitrary search and seizures and humiliated with pejorative investigatory questions. The Canadian Armed Forces and Department of National Defense's systemic policy of discrimination was a violation of the Defendant's duty of care and fiduciary duty and of the rights of the plaintiff and the class under the *Canadian Charter of Rights and Freedoms*.

#### **F. NEGLIGENCE**

37. At all material times, the Canadian Armed Forces and the Department of National Defence owed a duty of care to the plaintiff and the class members to create and maintain a workplace that was free from discrimination and harassment on the basis of sexual orientation.

38. The harm suffered by the plaintiffs and the class was a reasonably foreseeable consequence of the defendant's and its employees' acts and omissions. The defendant was the employer of all class members. At all material times, the actions of the defendant had a direct impact on the class members. The defendant was responsible for providing or causing to provide facilities, policies, standards and programs appropriate for the employment of the class members.

In such circumstances, the risk of harm of the nature contemplated in this action was reasonably foreseeable.

39. There was a direct and proximate relationship and specific interaction between the plaintiff and the class members and the defendant and its employees, including but not limited to:

- (a) the daily interaction between class members and the defendant and its employees; and
- (b) the close and direct supervisory relationship between the defendant and its employees and the class members.

40. The reasonable standard of care required the Canadian Armed Forces and the Department of National Defence to:

- (a) use reasonable care to ensure the safety and well-being of the plaintiff and the class members;
- (b) provide safe workplace environments free from discrimination and harassment based on sexual orientation;
- (c) provide equal employment training and advancement opportunities to the plaintiff and the class, regardless of sexual orientation;
- (d) establish and enforce appropriate policies, codes, guidelines, and management and operations procedures to ensure that the plaintiff and the class members would be free from discrimination and harassment based on sexual orientation;
- (e) implement standards of conduct for the Canadian Armed Forces and the Department of National Defence work environment and for Canadian Armed Forces and the Department of National Defence employees, to safeguard the plaintiff and the class members from discrimination and harassment based on sexual orientation;
- (f) educate and train Canadian Armed Forces and the Department of National Defence employees to promote universal understanding amongst all Canadian Armed Forces and the Department of National Defence employees that discrimination and harassment based on sexual orientation is dangerous and harmful;
- (g) supervise the conduct of Canadian Armed Forces and the Department of National Defence employees properly so as to prevent the plaintiff and the class members from being exposed to discrimination and harassment based on sexual orientation;

- (h) investigate and adjudicate complaints of discrimination and harassment based on sexual orientation fairly and with due diligence; and
- (i) act in a timely fashion to resolve situations of discrimination and harassment based on sexual orientation and to work to prevent re-occurrence.

41. The Canadian Armed Forces and the Department of National Defence negligently breached its duty of care to the plaintiff and the class, the particulars of which negligence include, but are not limited to:

- (a) failing 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 discrimination and harassment based on sexual orientation;
- (b) permitting practices which denied employment training and advancement opportunities to the plaintiff and the class members, on the basis of their sexual orientation;
- (c) failing to provide adequate, or any, training and education programs for Canadian Armed Forces and the Department of National Defence employees regarding the dangerous and harmful nature of discrimination and harassment based on sexual orientation;
- (d) failing to make sufficient overall efforts to promote the universal understanding amongst all Canadian Armed Forces and the Department of National Defence employees that discrimination and harassment based on sexual orientation are dangerous and harmful;
- (e) permitting a workplace environment that normalized the occurrence of discrimination and harassment based on sexual orientation;
- (f) failing to supervise the conduct of Canadian Armed Forces and the Department of National Defence employees properly so as to prevent the plaintiff and the class members from being exposed to discrimination and harassment based on sexual orientation;
- (g) failing to implement adequate, or any, standards of conduct for the Canadian Armed Forces and the Department of National Defence work environment and for Canadian Armed Forces and the Department of National Defence employees with regard to discrimination and harassment based on sexual orientation;
- (h) failing to investigate complaints of discrimination and harassment based on sexual orientation adequately or at all;
- (i) failing to adjudicate complaints of discrimination and harassment based on sexual orientation fairly or at all;

- (j) failing to act in a timely fashion to put a stop to incidents of discrimination and harassment based on sexual orientation;
- (k) failing to apply appropriate consequences to perpetrators of discrimination and harassment based on sexual orientation; and
- (l) failing to protect the plaintiff and the class members from the continuation or re-occurrence of discrimination and harassment based on sexual orientation.

42. The Canadian Armed Forces and the Department of National Defence knew, or ought to have known, that the above conduct was of a kind reasonably capable of causing the damages alleged to have occurred.

#### **G. BREACH OF FIDUCIARY DUTY**

43. The defendant owed all class members a fiduciary duty that included a duty to care for and protect them and to act in their best interests at all material times, as particularized further below.

44. By virtue of the relationship between the class members and the defendant, being one of trust, reliance and dependency, the defendant owed a fiduciary obligation to ensure that the class members were treated respectfully, fairly and safely, to act in the best interests of those individuals, and to protect them from harm. The class members had a reasonable expectation that the defendant would act in their best interests with respect to their well-being given the assumption of responsibility for the care of the class members, by virtue of:

- (a) the defendant's establishment, operation, financing, supervision and control of the military services during the class period;
- (b) the binding nature of enrolment in the Canadian Armed Forces and the Department of National Defence;
- (c) the oaths and declarations required by members of the Canadian Armed Forces and the Department of National Defence upon enrolment;
- (d) the hierarchical and authoritarian command structure of Canadian Armed Forces and the Department of National Defence;

- (e) the tremendous power and authority of the defendant over the plaintiff and other class members;
- (f) the unilateral assumption of responsibility for the care of the class members by the defendant; and
- (g) the dependence of the class members on the defendant.

45. The defendant's control and discretion over the class members was close and direct arising through direct contact and interaction.

46. Given the circumstances of the relationship between the defendant and the class members, including but not limited to the statutory obligations and its authority and control over the class members, the defendant undertook to act in the best interests of the class members and to act in accordance with the duty of loyalty imposed on the defendant. In the alternative, the defendant had a duty not to actively harm and denigrate the members of the class. The defendant was solely responsible for, among other things:

- (a) the protection of the health, safety and well-being of the class members during the class period;
- (b) ensuring the fair and equal treatment among members of the military; and
- (c) decisions, procedures, regulations, operations and actions taken by the defendant and its employees, servants, officers and agents and their predecessors during the class period.

47. The class members were entitled to rely and did rely on the defendant to their detriment to fulfill their fiduciary obligations. As a result of their sexual orientation, the class members were particularly vulnerable to and at the mercy of, the defendant's discretion and power.

48. The defendant's unilateral exercise of power and discretion impacted the class members' legal interests, including but not limited to pre-existing legal entitlements to wages, pension benefits and other benefits arising from their employment and the class members' fundamental human and personal interests, including the complete expression of personal identity.

49. The defendant breached its fiduciary duties to the plaintiff and the class. The particulars of the breach include:

- (a) failing to take a proper and good faith interest in the operation of the military services;
- (b) putting its own interests ahead of the interests of class members by improperly placing them under surveillance, investigating, interrogating, and denying class members security clearances;
- (c) dismissing the class members from the military services;
- (d) improperly distinguishing the class members as a result of their sexual orientation; and
- (e) failing to safeguard the physical and psychological needs of the class members.

50. The defendant knew or ought to have known that as a consequence of its actions, the plaintiff and the class members would suffer damages, as discussed below.

51. The defendant is vicariously liable for the acts and omissions of its employees.

#### **H. BREACH OF THE CANADIAN *CHARTER OF RIGHTS AND FREEDOMS***

52. The conditions particularized above violate the basic and fundamental human rights of the class members and, as such, constitute a violation of their rights and freedoms under section 15 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**").

53. Gay men and lesbians are a vulnerable group. They have suffered historical disadvantage, stereotyping, marginalization and stigmatization within Canadian society.

54. The campaign to purge gay men and lesbians from the military drew a formal distinction between members of the military based on sexual orientation, a personal characteristic of each class member. The campaign also failed to take into account the class members' already



disadvantaged position within Canadian society arising from the historic social, political and economic disadvantage suffered by gay men and lesbians.

55. The campaign to purge gay men and lesbians from the military led to class members concealing their true identities, which was harmful to their personal confidence and self-esteem. Compounding that effect was the message that gay men and lesbians, unlike other individuals, were not worthy of military service. This form of discrimination demeaned the class members and strengthened and perpetuated the view that gay men and lesbians were less worthy of legal and other protection as individuals. The harm to the dignity and perceived worth of gay men and lesbians constituted a particularly cruel form of discrimination.

56. Sexual orientation is an analogous ground to those listed in section 15(1) of the *Charter*. It is a deeply personal characteristic that is unchangeable.

57. The differential treatment perpetuated by the defendant discriminated against the class members by both imposing burdens and withholding benefits based on the class members' personal characteristics. It also had the effect of perpetuating and promoting the view that the class members, by virtue of their sexual orientation, were less capable and worthy of recognition and value as human beings and as members of Canadian society.

58. The purge campaign violated the essential dignity and freedom of the class members through the direct imposition of disadvantage, stereotyping and social prejudice.

59. The purge campaign was arbitrary and was imposed without institutional justification. It had dire and demeaning consequences to those affected. It was exercised in bad faith and constituted an abuse of power.

60. In the circumstances, the plaintiff and the class are entitled to monetary damages pursuant to section 24(1) of the *Charter* for violation of the class members' rights and freedoms in order to:

- (a) compensate them for their suffering and loss of dignity;
- (b) vindicate their fundamental rights; and
- (c) deter systemic violations of a similar nature by the defendant and others who are similarly situated.

61. There are no countervailing considerations rendering damages in this case inappropriate or unjust.

#### **I. DAMAGES**

62. The defendant knew, or ought to have known, that as a consequence of its operation of the purge campaign, that the plaintiff and the class members would suffer suffered serious, lasting and permanent injuries including:

- (a) loss of income, including future income;
- (b) loss of pension income and benefits;
- (c) loss of employment benefits;
- (d) loss of future employment opportunities;
- (e) emotional and psychological harm and distress;
- (f) exacerbation of psychological illness and the creation of new psychological illnesses;
- (g) an impaired ability to obtain and sustain employment, resulting either in lost or reduced income and ongoing loss of income;
- (h) a requirement for medical or psychological treatment and counselling;
- (i) an impaired ability to enjoy and participate in recreational, social and employment activities and to form personal relationships;
- (j) the loss of general enjoyment of life;

- (k) damages pursuant to section 24 of the *Charter of Rights and Freedoms*; and
- (l) such further and other injuries as the plaintiff and class members may advise prior to trial in this matter.

63. The plaintiff and the class sustained and will continue to sustain income loss, pain and suffering, loss of enjoyment of life and loss of amenities.

#### **J. PUNITIVE DAMAGES**

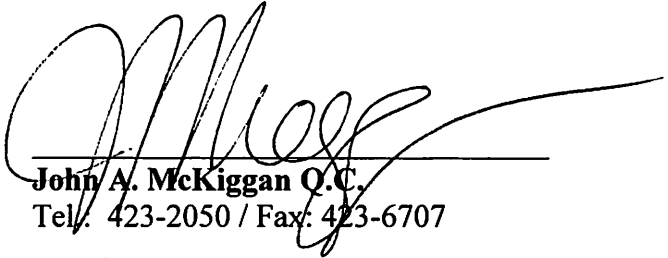
64. The high-handed and callous conduct of the defendant warrants the condemnation of this Honourable Court. The defendant conducted its affairs with wanton and callous disregard for the class members' interests, safety, and well-being. The defendant breached, and continues to breach, its duty of care, fiduciary duty and *Charter* duties owed to the plaintiff and the class members.

65. Over a long period of time, the plaintiff and the class members were treated in a manner that could foreseeably result in the damages suffered. The purge campaign to which the plaintiff and the class members were exposed to grossly violated their rights and severely altered the paths of their lives.

66. The defendant's actions were deliberate. In these circumstances, punitive damages are necessary to act as a deterrent to prevent such conduct in the future.

67. The Plaintiff proposes that this action be tried at Halifax, Nova Scotia.

**DATED** at Halifax, in the Halifax Regional Municipality, Province of Nova Scotia, this 6<sup>th</sup> day of December, 2016.



**John A. McKiggan Q.C.**  
Tel: 423-2050 / Fax: 423-6707

**McKiggan Hebert**  
903 - 5670 Spring Garden Road  
Halifax, Nova Scotia B3J 1H6

**Kirk M. Baert**  
Tel: 416-595-2117 / Fax: 416-204-2889

**Garth Myers**  
Tel: 416-595-2102 / Fax: 416-204-4924

**Koskie Minsky LLP**  
20 Queen Street West  
Suite 900, Box 52  
Toronto, ON M5H 3R3

Lawyers for the Plaintiff