

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CONREY FRANCIS

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**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 \$» 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  
: April 20, 2017

Issued by R. Cameron  
Local registrar

Address of (Oshawa) Durham  
court office Consolidated Courthouse 150  
Bond Street East  
Oshawa, ON L1G 0A2

**TO: HER MAJESTY THE QUEEN IN RIGHT  
OF THE PROVINCE OF ONTARIO**  
Crown Law Office – Civil Law  
720 Bay Street  
8<sup>th</sup> Floor  
Toronto, ON M5G 2K1

Tel.: 416-325-8535  
Fax: 416-326-4181

## CLAIM

1. The Plaintiff on behalf of the Class described herein, claims:
  - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the representative Plaintiff;
  - (b) a declaration that the Defendant breached its fiduciary duties to the Plaintiff and the Class through the establishment, funding, operation, management, administration, supervision and/or control of the Correctional Institutions, as defined herein;
  - (c) a declaration that the Defendant is liable to the Plaintiff and the Class for damages caused by its breach of its common law duties in relation to the establishment, funding, operation, management, administration, supervision and/or control of the Correctional Institutions;
  - (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* (the "*Charter*");
  - (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 *Charter*;
  - (f) damages or such other remedy as the Court may consider just and appropriate pursuant to section 24 of the *Charter*;
  - (g) damages for negligence and breach of fiduciary duty in the amount of \$500 million or any such amount that this Honourable Court deems appropriate;
  - (h) punitive damages in the amount of \$100 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 notice and 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. Every day, prisoners in Ontario's correctional institutions are subjected to conditions of torture, and cruel, inhuman or degrading punishment.

3. Segregation, or "**Solitary Confinement**" as it is more commonly known, is grossly overused on a systemic basis throughout Ontario's correctional system.

4. The effects of segregation are significant and substantial. After only a short time, a prisoner's physical and mental health deteriorate. When a prisoner already suffers from mental illness, the effects of prolonged segregation are amplified. Such damage is often irreversible and will have a substantial and lasting effect on that person's life.

5. Prisoners are left for weeks, months, and years in 'administrative segregation' with little or no concern for the lasting physical or mental effects of the practice.

6. The Crown's continued reliance on Solitary Confinement in the face of widespread recommendations to eliminate its use runs contrary to the Crown's duties and obligations to the Class.

## **THE PLAINTIFF AND THE CLASS**

7. Conrey Francis is a prisoner at the Toronto South Detention Centre in Toronto, Ontario. He is 51 years old and is originally from Mississauga, Ontario. He has been

diagnosed with Post-Traumatic Stress Disorder ("PTSD") and experiences extreme panic attacks. He has been subjected to Solitary Confinement during his incarceration. Mr. Francis was recently acquitted of all charges.

8. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of the following Class:

All current and former prisoners of correctional institutions as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22 (the "**Correctional Institutions**"):

- (a) who were subjected to Solitary Confinement for any length of time at one of the Correctional Institutions between January 1, 1985 and the present day; and,
- (b) who were diagnosed by a medical doctor with a mental illness.

("Class members")

#### **THE DEFENDANT AND ITS RESPONSIBILITY FOR THE CORRECTIONAL INSTITUTIONS**

9. 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, and the amendments thereto.

10. The Correctional Institutions operate under the auspices of the Ministry of Community Safety and Correctional Services (the "**Ministry**"). The Ministry establishes, maintains, operates, and monitors the Correctional Institutions.

11. The Correctional Institutions are or were correctional institutions pursuant to the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22 (the "**Act**"). In accordance with the Act, the Crown is responsible for:

- (a) supervising the detention of the Class Members;
- (b) creating an environment in which prisoners may be effectively and properly rehabilitated;

- (c) providing for the custody of Class Members;
- (d) establishing, maintaining and operating the Correctional Institutions;
- (e) the provision of adequate medical treatment; and
- (f) the provision of adequate psychiatric treatment.

12. In accordance with *Ministry of Correctional Services Act*, R.R.O. 1990, Reg. 778 (the "**Regulation**"), the superintendent of a Correctional Institution is responsible for:

- (a) the management of the institution;
- (b) the care, health, safety and custody of prisoners incarcerated therein;
- (c) administering the institution; and
- (d) issuing to the employees of the institution such directions as may be necessary to fulfil the responsibilities of a superintendent.

13. The Correctional Institutions are located across Ontario. At all material times, the Crown, through and with its agents, servants and employees, owned and was responsible for the operation, funding and supervision of the Correctional Institutions. The Correctional Institutions are under the sole jurisdiction and control of, and were operated by, the Crown. The Crown retains and authorizes servants, agents, representatives and employees to operate the Correctional Institutions and gives instructions to such servants, agents, representatives and employees as to the manner in which the Correctional Institutions are to function and operate. The Ministry or its agents also discipline and terminate employees that staff the Correctional Institutions.

#### **SOLITARY CONFINEMENT**

14. In all circumstances, the use of Solitary Confinement has a severely detrimental impact on the physical and psychological well-being of a prisoner. The Crown relies on this practice to contain, manage and punish the Class. The use of Solitary Confinement

on mentally ill prisoners for extended periods constitutes cruel and unusual punishment, and runs contrary to Canadian and international law.

15. While in Solitary Confinement, a prisoner is placed in a small cell and is denied meaningful human contact or interaction for 23 hours per day. A prisoner's only human interaction is with Crown agents, which is minimal.

16. Prisoners *without* mental health issues suffer severe effects when in Solitary Confinement. Anxiety, depression and anger are common responses. For mentally ill prisoners, the impacts of Solitary Confinement are greatly amplified. *Any* time spent in Solitary Confinement for mentally ill prisoners can be catastrophic.

17. According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the United Nations Special Rapporteur on Torture, periods of segregation for more than 15 days and/or indefinite periods of segregation can amount to "torture or other cruel, inhuman or degrading treatment or punishment", and should be prohibited.

18. Solitary Confinement can have, *inter alia*, the following impacts on Class members:

- (a) difficulty separating reality from their own thoughts;
- (b) confused thought processes;
- (c) perceptual distortions;
- (d) paranoia;
- (e) psychosis;
- (f) worsening of pre-existing psychological conditions;
- (g) physical effects, such as lethargy, insomnia, palpitations and various eating disorders;

- (h) permanent difficulty coping with social interactions; and,
- (i) self-harm and suicide.

19. These effects frustrate the rehabilitative function of incarceration on prisoners. Prison programming is not available to segregated prisoners. Mental and physical conditions cannot be properly assessed and treated while a prisoner is in Solitary Confinement. Prisoners are also more likely to lengthen their own sentences due to behaviours resulting from the conditions of their incarceration.

20. There are two types of Solitary Confinement used in the Correctional Institution: Disciplinary Solitary Confinement and Administrative Solitary Confinement.

21. An inmate may be placed in disciplinary "close confinement" ("**Disciplinary Solitary Confinement**") for no more than 30 days under section 32(2) of the Act if he or she commits a "serious" misconduct offence.

22. Under the Regulation, prisoners subjected to Disciplinary Solitary Confinement are entitled to certain due process safeguards.

23. A prisoner may be placed in Solitary Confinement, under the section 34 of the Regulation ("**Administrative Solitary Confinement**"), if:

- (a) in the opinion of the superintendent, the prisoner is in need of protection;
- (b) in the opinion of the superintendent, the prisoner must be segregated to protect the security of the institution or the safety of other prisoners;
- (c) the prisoner is alleged to have committed a misconduct of a serious nature; or,
- (d) the prisoner requests to be placed in segregation.

24. In practice, the Ministry places inmates in Administrative Solitary Confinement for a multitude of reasons, including 'medical reasons' or 'unknown reasons'.



25. The justification for segregation in the Correctional Institutions is overwhelmingly administrative, rather than disciplinary.

26. Administrative Solitary Confinement has no time limits and attracts no due process. There is no opportunity to dispute placement decisions and there is no review process.

27. The extensive use of Administrative Solitary Confinement is not being used as a last resort, but rather as a routine management strategy across the Correctional Institutions.

### **KNOWLEDGE OF THE CROWN**

28. The Crown knew or ought to have known of prisoners in the Correctional Institutions being subjected to conditions of torture, and cruel, inhuman or degrading punishment every day caused by the gross overreliance on Solitary Confinement.

29. Public third-party reviews of the use of Solitary Confinement on prisoners have concluded that the practice should be eradicated in Ontario prisons. For example:

- (a) In January 2016, the Ontario Human Rights Commission provided the Ministry with long-term and interim recommendations aimed at addressing the over-use of segregation and protecting prisoners' *Human Rights Code* rights;
- (b) In April 2016, the Ontario Ombudsman provided the Ministry with a report concerning the reality of Solitary Confinement in practice and identified "serious issues with the current system". The Ontario Ombudsman provided a series of long-term and interim recommendations focussed on abolishing indefinite segregation and implementing sufficient safeguards to protect the rights of prisoners;
- (c) In October 2016, the Ontario Human Rights Commission provided the Ministry with further long-term and interim recommendations aimed at eliminating the "systemic overuse of segregation"; and,

- (d) In October 2016, the Ontario Human Rights Commission raised concerns that the Ministry has failed to comply with its obligations under the *Jahn v. Ministry of Community Safety and Correctional Services* settlement agreement dated September 24, 2013, in which the Ministry agreed to take steps to improve its treatment of prisoners with mental health disabilities.

30. The Defendant's policies and practices are patently unreasonable in all of the circumstances. The carrying out of such policies is done in bad faith and does not constitute acceptable operational choices.

31. Despite the recommendations and conclusions made to it, the Crown has continued the widespread use of Solitary Confinement in an inappropriate and unreasonable manner.

#### **THE PLAINTIFF'S EXPERIENCES IN SOLITARY CONFINEMENT**

32. Mr. Francis is currently incarcerated in the Toronto South Detention Centre ("**Toronto South**") related to charges including robbery. He has been at the Toronto South Detention Centre since January 9, 2015.

33. Mr. Francis was fully acquitted of his charges in March 2017.

34. Mr. Francis was first incarcerated for robbery charges in 1982 when he was a teenager. Mr. Francis has served various prison sentences since 1982 in both Federal and Provincial Correctional Institutions.

35. During one of his sentences, Mr. Francis was diagnosed by a doctor with PTSD. He experiences extreme panic attacks.

36. Mr. Francis has been placed in Solitary Confinement at various times during his incarcerations. He was first placed in Solitary Confinement in 1985 in the Don Jail for duration of several weeks.

37. At Toronto South, Mr. Francis has spent time in Administrative Solitary Confinement.

38. Mr. Francis suffered a significant worsening of his mental health conditions during this time in Solitary Confinement at Toronto South, including anxiety, depression, panic attacks, suicidal thoughts, and auditory hallucinations.

## **THE CROWN'S BREACH OF ITS FIDUCIARY DUTY**

### ***The Crown's Fiduciary Duty***

39. The Crown owed all prisoners of the Correctional Institutions, as individuals in its sole care and control, 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.

40. The Crown established, operated, financed, supervised and controlled the Correctional Institutions during the Class Period.

41. The prisoners' care was subject to the unilateral exercise of the Crown's power and discretion. The prisoners were and are in a vulnerable position.

42. By virtue of the relationship between the prisoners and the Crown, being one of trust, reliance and dependency, the Crown owed a fiduciary obligation to ensure that the prisoners were treated respectfully, fairly, and safely, to act in the best interests of those individuals, to maintain appropriate standards during their care, and to protect them from harm.

43. The prisoners had a reasonable expectation that the Crown would act in their best interests with respect to their physical and mental healthcare and wellbeing given the assumption of responsibility for the care of prisoners, by virtue of factors including:

- (a) the unilateral assumption of responsibility for the care of the Class members by the Crown;

- (b) the historic duties of the Crown owed to prisoners;
- (c) the involvement of the Crown in establishing the Correctional Institutions;
- (d) the dependence of the Class members on the Crown;
- (e) the vulnerability of the Class members as a result of their incarceration at the Correctional Institutions; and
- (f) the involuntary nature of the relationship between the Class members and the Crown.

44. Given the circumstances of the relationship between the Crown and the Class members, including but not limited to the statutory obligations, authority and control over the Class members, the Crown undertook to act in the best interests of the Class members and to act in accordance with the duty of loyalty imposed on the Crown.

45. The Crown was solely responsible for, amongst other things:

- (a) the implementation of the Act, any other statutes relating to prisoners, and all regulations promulgated under these statutes, and their predecessors during the Class Period;
- (b) the protection of the health, safety and well-being of prisoners during the Class Period, including the maintenance of the minimum standards set out herein;
- (c) the management, operation, administration, ownership, financing, inspection and auditing of the Correctional Institutions during the Class Period;
- (d) decisions, procedures, regulations promulgated, operations and actions taken by the Ministry, their employees, servants, officers and agents and their predecessors during the Class Period;

- (e) the care and supervision of, and the provision of the necessities of life to, all Class members while they were incarcerated in the Correctional Institutions during the Class Period; and
- (f) the inspection and supervision of the Correctional Institutions and all activities that took place therein during the Class Period and for full record keeping with respect to the conditions at these prisons and all activities that took place therein during the Class Period.

***The Crown's Breach of its Fiduciary Duty***

46. The Class members were entitled to rely, and did rely, on the Crown to their detriment to fulfill their fiduciary obligations. The Crown breached its fiduciary duties to the Plaintiff and the Class. The particulars of the breach include:

- (a) using of Solitary Confinement on the Class members;
- (b) using Solitary Confinement for administrative purposes without providing for appropriate review or safeguards to protect the rights and well-being of the Class members;
- (c) failing to provide adequate health care to Class members before and after instituting Solitary Confinement;
- (d) failing to ensure that physical, emotional and psychological harm would not befall the Class members;
- (e) failing to properly supervise the Correctional Institutions, including its administration and activities;
- (f) failing to properly, effectively and in good faith supervise the Correctional Institutions and the conduct of its employees and agents to ensure that Class members would not suffer harm;

- (g) failing to provide proper and reasonable treatment for Class members after being subjected to Solitary Confinement;
- (h) failing to provide a safe environment, and in particular, one free from physical, emotional and psychological harm;
- (i) failing to provide adequate financial resources or support to properly care and provide for Class members;
- (j) failing to respond adequately, or at all, to complaints or recommendations that were made concerning the Correctional Institutions with respect to the treatment and condition of Class members;
- (k) failing to safeguard the physical and emotional needs of Class members; and,
- (l) permitting cruel, unusual, and excessive punishments to be perpetrated against the Class members.

## **THE CROWN'S NEGLIGENCE**

### ***The Crown's Duty of Care***

47. The Crown created, planned, established, set-up, initiated, operated, controlled and/or regulated the Correctional Institutions during the Class Period.

48. 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 the Correctional Institutions and all regulations promulgated under these statutes during the Class Period;

- (c) promotion of the health, safety and well-being of Class members during the Class Period;
- (d) properly and effectively supervising the Correctional Institutions 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; and
- (f) the construction, operation, maintenance, ownership, financing, administration, supervision, inspection and/or auditing of the Correctional Institutions during the Class Period.
- (g) the medical care and supervision of all Class members within the Correctional Institutions and all activities that took place therein during the Class Period.

49. 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 its common law duty.

### ***The Crown's Negligence***

50. The Crown breached its duty of care to Class members in its established, operation, regulation, financing, supervision and control of the Correctional Institutions.

51. The Crown breached its common law duties to the Class through its negligent failure to properly supervise the operations and staff of the Correctional Institutions. 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.

52. In particular, the Crown acted negligently by:
- (a) subjecting Class members to Solitary Confinement;
  - (b) failing to recognize that extended periods in Solitary Confinement constitutes torture or cruel, degrading or inhuman punishment;
  - (c) failing to remove Class members from Solitary Confinement in a timely fashion in order to avoid permanent injury;
  - (d) over-relying on Solitary Confinement for administrative purposes within the Correctional Institutions;
  - (e) failing to provide adequate medical and mental health care for Class members before and after being subjected to Solitary Confinement;
  - (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 due to use of Solitary Confinement;
  - (i) failing to adequately supervise the Correctional Institutions, including their administration and activities;
  - (j) failing 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 Correctional Institutions and their use of Solitary Confinement;
- (n) failing to provide proper and reasonable medical and psychological/psychiatric treatment for Class members after learning of their exposure to Solitary Confinement; and,
- (o) failing to respect Class members' religious practices and rights during incarceration in Solitary Confinement.

#### **THE CROWN'S BREACHES OF THE *CHARTER***

53. The conditions particularized above violate the basic human rights of the Class members and, as such, constitute a violation of their rights and freedoms under sections 7, 9 and 12 of the *Charter*.

54. The Crown created, planned, established, operated, financed, supervised, controlled and regulated the entire system of Correctional Institutions during the Class Period.

55. The frequency, duration, and conditions of Solitary Confinement that the Class members are subjected to engage the interests of liberty and security of the person. The conditions and conduct of the Crown violate the rights of the Class to life, liberty and security of the person, contrary to section 7 of the *Charter*.

56. Further, the widespread overuse of Solitary Confinement is arbitrary and is imposed without institutional justification. This constitutes arbitrary restraint or detention, and as such, constitutes a breach of section 9 of the *Charter*.

57. The frequency, duration, and conditions of Solitary Confinement that the Class members are subjected to violate the rights of Class members to be held in custody in a

humane and safe facility. This treatment is so excessive as to outrage standards of decency and is grossly disproportionate. The use of the Solitary Confinement at the Correctional Institutions constitutes cruel, inhumane and degrading treatment or punishment contrary to section 12 of the *Charter*.

58. The frequency, duration, and conditions of Solitary Confinement to which the Class members are subjected is imposed without institutional justification.

59. 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' constitutional 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.

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

#### **DAMAGES SUFFERED BY CLASS MEMBERS**

61. The Class Members suffered damages as a result of the Crown's negligence, breach of fiduciary duty, and breaches of the *Charter*, the particulars of which are set out herein.

62. The Crown knew, or ought to have known, that as a consequence of its operation, care, and control of the Correctional Institutions, or lack thereof, in breach of its fiduciary and constitutional duties, and in a negligent manner, the Class would suffer immediate and long-term physical, mental, emotional, psychological, and spiritual harm.

63. Members of the Class were traumatized by their experiences arising from their incarceration at the Correctional Institutions. As a result of the Crown's breach of its fiduciary duty, its negligence, and its violation of the Class members' *Charter* rights, 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 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.

64. 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 will require future medical care and 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.

65. The Plaintiff pleads that the Crown is strictly liable 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.

### **PUNITIVE/AGGRAVATED DAMAGES**

1. 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 the Class.

2. The Crown has over relied on systemic use of Solitary Confinement for administrative purposes. The cruel, inhuman, and degrading punishments to which the Class members were exposed have violated their rights and irreparably altered the paths of their lives.

3. In these circumstances, the Plaintiff and the other Class members request aggravated or punitive damages.

April 20, 2017

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

**Kirk M. Baert LSUC#: 309420**  
Tel: 416-595-2117  
Fax: 416-204-2889  
**James Sayce LSUC#: 58730M**  
Tel: 416-542-6298  
Fax: 416-204-2809

Lawyers for the Plaintiff

CONREY FRANCIS  
Plaintiff and  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO  
Defendant

Court File No.: 1195/17

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**

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

**Kirk M. Baert LSUC#: 309420**  
Tel: 416-595-2117  
Fax: 416-204-2889  
**James Sayce LSUC#: 58730M**  
Tel: 416-542-6298  
Fax: 416-204-2809

Lawyers for the Plaintiff