

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JULLIAN JORDEA REDDOCK AND CARSON CAMPBELL

Plaintiff

- and -

ATTORNEY GENERAL OF CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

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 \$10,000 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: March 3, 2017

Issued by _____
Local registrar

Address of court office Toronto Courthouse
393 University Ave,
10th Floor
Toronto, ON, M5G 1E6

TO: **THE ATTORNEY GENERAL OF CANADA**
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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 for the Class (as defined below);
 - (b) a declaration that the Defendant breached its fiduciary duties to the Plaintiff and the Class through the establishment, use, operation, management, administration, supervision and control of Prolonged Administrative Solitary Confinement in the manner described below at the Federal Institutions (as defined below);
 - (c) a declaration that the Defendant is liable to the Plaintiff and the Class for damages caused by its breach of its common law duty of care and false imprisonment, intentional infliction of mental suffering, assault, and battery, in relation to its establishment, use, operation, management, administration, supervision and control of Prolonged Administrative Solitary Confinement in the manner described below at the Federal Institutions (as defined below);
 - (d) a declaration that the Defendant has violated the Plaintiff's and Class members' rights under sections 7, 9, 11(h), and/or 12 of the *Canadian Charter of Rights and Freedoms* in relation to its establishment, use, operation, management, administration, supervision and control of Prolonged Administrative Solitary Confinement in the manner described below at the Federal Institutions (as defined below);
 - (e) a declaration that the practices of the Defendant in relation to the Prolonged Administrative Solitary Confinement of the Plaintiff and Class members constitute cruel, inhumane and degrading treatment or punishment;
 - (f) an order condemning the Defendant to pay 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) an order condemning the Defendant to pay damages for negligence, intentional torts, breach of fiduciary duty, and breaches of the *Canadian Charter of Rights and Freedoms* in the amount of \$500 million or any such amount that this Honourable Court deems appropriate;
 - (h) in the alternative, an order condemning the Defendant to pay restitution, disgorgement, or damages in waiver of tort for cost savings realized by the Defendant as a result of its breaches of fiduciary duties, unjust enrichment, negligence, and intentional torts as against Class members, and a declaration that such funds are subject to a constructive trust in favour of Class members;

- (i) punitive damages in the amount of \$100 million;
- (j) prejudgment and postjudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- (k) costs of the action on a substantial indemnity basis or in an amount that provides full indemnity to the Plaintiff;
- (l) 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,
- (m) such further and other relief as this Honourable Court may deem just.

OVERVIEW

1. Class members are placed in small cells and denied any meaningful human contact for at least 22 hours a day. This practice is referenced herein as **“Solitary Confinement”**. Class members were subjected to Solitary Confinement for a period of at least fifteen (15) consecutive days, which is referenced as **“Prolonged Solitary Confinement”**.
2. Prisoners are subjected to Solitary Confinement for either disciplinary or administrative reasons. **“Disciplinary Solitary Confinement”** may only be imposed as a punishment for the most serious offences committed by a prisoner. By contrast, **“Administrative Solitary Confinement”** may be imposed in instances where the prisoner has done nothing wrong, but Solitary Confinement is deemed necessary to maintain the security of the penitentiary or the safety of any person.
3. Unlike Disciplinary Solitary Confinement, Administrative Solitary Confinement is frequently initiated by low-level prison officials and continued indefinitely. It has become a convenient means of removing problematic prisoners from the general population. There are no time limits on Administrative Solitary Confinement, nor is there any requirement that a prisoner’s continued detention be subject to independent review. Class members were, and continue to be, involuntarily subjected to Prolonged Solitary Confinement for administrative reasons (**“Prolonged Administrative Solitary Confinement”**).
4. Prolonged Solitary Confinement causes serious psychological and physical damage. The Defendant has long been aware of the harm caused by Prolonged Solitary Confinement, and it has long been urged to abolish this practice.
5. Nevertheless, Prolonged Solitary Confinement, and in particular Prolonged Administrative Solitary Confinement, continues to be employed in Canadian prisons with appalling regularity. Members of the Class (as defined below) are subjected to months and even years of Administrative Solitary Confinement. Prolonged Administrative Solitary Confinement is an everyday occurrence for prisoners incarcerated across the Federal system.

6. Every instance of Prolonged Administrative Solitary Confinement constitutes cruel, inhumane and degrading treatment. Prolonged Administrative Solitary Confinement is contrary to both domestic and international law. There can be no justification for Prolonged Administrative Solitary Confinement.
7. Canada's prisons have a legislated mandate to rehabilitate prisoners. By subjecting Class members to Prolonged Administrative Solitary Confinement, the Defendant breached its duties to this vulnerable group. The Defendant's treatment of Class members is barbaric, and it has no place in a free and democratic society.

THE PARTIES

8. ~~The Plaintiffs are Jullian Reddock ("Mr. Reddock") and Carson Campbell ("Mr. Campbell"). Mr. Reddock is an inmate at the Kent Institution, a maximum security penitentiary in Agassiz, B.C. He is presently being subjected to Prolonged Administrative Solitary Confinement against his will. Mr. Reddock was previously subjected to involuntary Prolonged Administrative Solitary Confinement at several other Federal correctional facilities.~~
2. Mr. Reddock is a resident of Toronto, Ontario. He was sentenced to a term of incarceration in 2012 and served his sentence until June 2017. Prior to his release, he was an inmate at the Kent Institution, a maximum security penitentiary in Agassiz, B.C. There, he was subjected to Prolonged Administrative Solitary Confinement against his will. Mr. Reddock was previously also subjected to involuntary Prolonged Administrative Solitary Confinement at several other Federal correctional facilities.
9. Mr. Campbell is a resident of Moncton, New Brunswick. Between July 2010 and January 2017, he was at times incarcerated at Springhill Institution, in Springhill, Nova Scotia, and Dorchester Penitentiary, in Dorchester, New Brunswick. Mr. Campbell was subjected to Prolonged Administrative Solitary Confinement against his will at Dorchester Penitentiary.
10. The Defendant, Her Majesty the Queen in Right of Canada, is represented in this Action by the Attorney General of Canada ("**Canada**"). Canada represents the Correctional Service of Canada ("**CSC**"), which is the Federal Government body that administers the system of Federal correctional facilities across Canada ("**Federal Institutions**"). CSC is and was, at all times, responsible for the maintenance, oversight, funding and management of the governmental servants, employees, agents, and contractors who operate the Federal Institutions.
11. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all other Class members.
12. The proposed members of the Class are:

- (a) All persons, except Excluded Persons, as defined below, who were involuntarily subjected to a period of Prolonged Administrative Solitary Confinement, as defined below, at a Federal Institution, as defined below, between November 1, 1992 and the present, and were alive as of March 3, 2015 (“the Class”)
13. “Excluded Persons” are defined as all persons incarcerated at a Federal Institution who:
- (a) were diagnosed by a medical doctor with an Axis I Disorder (excluding substance use disorders), or Borderline Personality Disorder, who suffered from their disorder in a manner described in Appendix A, and reported such during their incarceration, where the diagnosis by a medical doctor occurred either before or during incarceration in a federal institution and the offenders were incarcerated between November 1, 1992 and the present, and were alive as of July 20, 2013.
- ~~(b) suffered from their disorder, in a manner described in Appendix A~~
- ~~(c) reported such suffering during their incarceration.; and~~
- ~~(d) were incarcerated between November 1, 1992 and the present, and were alive as of July 20, 2013.~~

THE CLASS WAS SUBJECTED TO PROLONGED ADMINISTRATIVE SOLITARY CONFINEMENT

14. Under the *Corrections and Conditional Release Act* (the “Act”), CSC has a legislated mandate to maintain the safe and humane custody of Federal prisoners and rehabilitate and reintegrate them into the community.¹ The care and treatment provided to Federal prisoners must adhere to professional and community standards.² CSC is statutorily obligated to create living conditions for all prisoners that are safe, healthy, and do not undermine a prisoner's sense of personal dignity.³
15. In all circumstances, Prolonged Administrative Solitary Confinement causes serious damage to the physical and mental well-being of a prisoner. The use of Prolonged Administrative Solitary Confinement constitutes cruel, inhumane and degrading punishment, contrary to the Act,⁴ and contrary to international law.

Effects of Solitary Confinement

16. Prisoners suffer severe adverse effects when subjected to Prolonged Solitary

¹ See s. 3 of the Act

² See s. 86 of the Act.

³ See s. 70 of the Act.

⁴ Section 69 of the Act states that no person shall administer, instigate, consent to or acquiesce in any cruel, inhumane or degrading treatment or punishment of an offender.

Confinement, including:

- (a) anxiety;
 - (b) anger;
 - (c) depression;
 - (d) difficulty separating reality from their own thoughts;
 - (e) confused thought processes;
 - (f) perceptual distortions and hallucinations;
 - (g) paranoia;
 - (h) psychosis;
 - (i) worsening of pre-existing mental and physical conditions;
 - (j) physical effects, such as lethargy, insomnia, palpitations and various eating disorders;
 - (k) difficulty coping with social interactions; and
 - (l) self-harm and suicide.
17. Prolonged Administrative Solitary Confinement aggravates the harmful effects of Prolonged Solitary Confinement because it is indefinite and prisoners suffer the anxiety of never knowing when it will end.
18. At the conclusion of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston, the Honourable Louise Arbour, Commissioner, reported to Canada "on the state and management of that part of the business of the Correctional Service of Canada that pertains to the incidents that occurred at the Prison for Women in Kingston, Ontario, beginning on April 22, 1994". Commissioner Arbour found that the "most objectionable feature" of lengthy Administrative Solitary Confinement was its "indefiniteness". She noted that segregated detention assumes a peculiar inertia:

The absence of any release plan in the early stages made it impossible for the segregated inmates to determine when, and through what effort on their part, they could bring an end to that ordeal. This indefinite hardship would have the most demoralizing effect and, if for that reason alone, there may well have to be a cap placed on all forms of administrative segregation. ...

If the segregation review process was designed to prevent endless, indeterminate segregation, by imposing a periodic burden on the prison authorities to justify further detention, it proved to be a total failure in this case. Essentially, the segregation review process reversed the burden and assumed, in virtually every instance, that release had to be justified. In many instances, the reasons advanced for maintaining the segregation status would have been entirely unacceptable to trigger segregation in the first place.

19. The “indefiniteness” identified by Commissioner Arbour continues to the present day in Administrative Solitary Confinement.

Solitary Confinement under the Act

20. As described above, the Act allows for two types of Solitary Confinement: Disciplinary Solitary Confinement (referenced in the Act as disciplinary segregation) and Administrative Solitary Confinement (referenced in the Act as administrative segregation). The conditions are the same but their purpose is different.
21. Disciplinary Solitary Confinement is used to punish prisoners who have committed the most serious disciplinary offences while incarcerated.⁵ Under the Act, however, there is a legislated limit on how long a prisoner may be subjected to Solitary Confinement for disciplinary reasons.⁶
22. When a prisoner is charged with a serious disciplinary offence, the prisoner’s guilt is determined at a hearing conducted by an independent chairperson. The independent chairperson is appointed by the Minister of Public Safety and Emergency Preparedness, and he or she cannot be a member of the CSC staff.⁷ Disciplinary hearings are effectively trials of the alleged offence.
23. By contrast, there is no limit on how long a prisoner may be subjected to Administrative Solitary Confinement, despite the fact that the prisoner has not been found guilty of any disciplinary offence. As a matter of practice, Administrative Solitary Confinement is indefinite, and prisoners never know when it will end.
24. The Act states that “the purpose of administrative segregation [Administrative Solitary Confinement] is to maintain the security of the penitentiary or the safety of any person by not allowing an inmate to associate with other inmates”.⁸ There

⁵ See s. 44(1)(f) of the Act.

⁶ See s. 44(1)(f) of the Act.

⁷ *Corrections and Conditional Release Regulations*, SOR/92-620 (the “Regulations”), ss. 24(1)(a) and 27(2).

⁸ See s. 31(1) of the Act.

is no requirement to consider the welfare of either the prisoner or the general population of the Federal Institution when ordering Administrative Solitary Confinement.

25. As a matter of practice, Administrative Solitary Confinement is routinely ordered by CSC staff designated by the head of the Federal Institution, and without any disciplinary charges being laid, including circumstances in which Solitary Confinement is ordered for the protection of the prisoner being detained.⁹ However, Administrative Solitary Confinement constitutes an incremental punishment, over and above the sentence that a Court had calibrated to the offences for which a prisoner was convicted.
26. The decision to order Administrative Solitary Confinement is reviewed first by the head of the Federal Institution, and thereafter by a non-binding Segregation Review Board appointed by the head of the Federal Institution, which Board may be composed of CSC staff.¹⁰ These reviews are perfunctory, and the inmate is denied the procedures available in a disciplinary hearing. After 60 days of Administrative Solitary Confinement, the prisoner's detention is reviewed by a staff member in the CSC regional headquarters.¹¹
27. At no time do the Act or the *Corrections and Conditional Release Regulations* (the "**Regulations**") require independent review of the decision to subject a prisoner to Administrative Solitary Confinement, and as a matter of practice, there is no independent review.
- ~~31. Both adults and juveniles sentenced as adults and incarcerated in Federal Institutions may be subjected to Administrative Solitary Confinement under the Act.¹² Juveniles as young as 14 years of age may be sentenced as adults, and accordingly, they may be subjected to Administrative Solitary Confinement and Prolonged Administrative Solitary Confinement in Federal Institutions.¹³~~
28. It is not uncommon for Class members to spend months or even years in Administrative Solitary Confinement. This form of indefinite Solitary Confinement is ordered by CSC staff, approved by CSC staff, and reviewed by CSC staff. Such confinement constitutes a 'sentence within a sentence' to a 'prison within a prison', and it amounts to a denial of natural justice.

Third-Party and International Consensus on Prolonged Solitary Confinement

29. Third-party reviews and international law are consistent in condemning the practice of Prolonged Solitary Confinement. For example:

⁹ See s. 6(c) of the Regulations and s. 31(3) of the Act.

¹⁰ See ss. 20-21 of the Regulations and s. 33 of the Act.

¹¹ See s. 22 of the Regulations.

¹² See s. 99(a) & (b) of the Act.

¹³ ~~*Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 64(1).~~

- (m) The Office of the Correctional Investigator of Canada, an agency of the the Federal Government charged with independent oversight of the CSC, has repeatedly criticized the Practice of Prolonged Solitary Confinement and called for its abolition;
- (n) The World Health Organization has recognized that Solitary Confinement has a negative impact on the health and well-being of prisoners, especially when imposed for prolonged periods, and that it can affect rehabilitation efforts, as well as prisoners' chances of successful reintegration into society following their release;
- (o) The Canadian Medical Association has recognized that Solitary Confinement should only be used for short periods;
- (a) The *Istanbul Statement on the Use and Effects of Solitary Confinement* (the "**Istanbul Statement**"), adopted by the International Psychological Trauma Symposium, recognized that Solitary Confinement may cause serious psychological and physiological ill effects, that negative health effects can occur after only a few days in Solitary Confinement, and that the health risks rise with each additional day spent in Solitary Confinement. The Istanbul Statement concluded that Solitary Confinement should only be used in very exceptional cases, for as short a time as possible, and only as a last resort.
- (p) The *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* ("**Torture Convention**"), as ratified by Canada, states that parties, including Canada, must take active steps to prohibit torture and cruel, inhuman or degrading treatment or punishment in their territory and jurisdiction;
- (q) The United Nations Committee Against Torture has recognized that:
 - (i) Solitary Confinement may constitute torture or cruel, inhuman or degrading treatment, contrary to the Torture Convention;
 - (ii) Solitary Confinement should be abolished or strictly and specifically regulated by law, including maximum duration;
 - (iii) Prolonged Solitary Confinement is prohibited by the Torture Convention; and
 - (iv) Vulnerable persons, ~~including juveniles under the age of 18,~~ should never be subjected to Solitary Confinement.
- (r) The United Nations Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, as advisor to the United Nations Human Rights Council, has found that:

- (i) Solitary Confinement can cause a number of severe health problems, including anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia, psychosis, and self-harm;
 - (ii) The social isolation and minimal stimulation that are hallmarks of Solitary Confinement produce negative health effects after only a few days;
 - (iii) Negative health effects attributable to Solitary Confinement increase the longer a prisoner is held in Solitary Confinement;
 - (iv) Solitary Confinement is contrary to the goals of rehabilitation and reintegration in the penitentiary system;
 - (v) Prolonged Solitary Confinement may rise to the level of torture or cruel, inhuman, or degrading treatment, and it should be abolished;
 - (vi) Solitary Confinement of persons with decreased capacity, including adolescents and young adults, ~~and juveniles~~ is cruel, inhuman or degrading treatment and may rise to the level of torture;
- (s) The *International Covenant on Civil and Political Rights* (the “**ICCPR**”), as ratified by Canada, states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. The United Nations Human Rights Committee has concluded that prolonged Solitary Confinement may constitute a prohibited act of torture or cruel, inhuman or degrading treatment, in contravention of the ICCPR;
- (t) The revised *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the “**Nelson Mandela Rules**”), unanimously adopted by the United Nations General Assembly with Canada’s vote, codify, among other things, the following standards:
- (i) No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment;
 - (ii) In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment, including indefinite or prolonged Solitary Confinement;
 - (iii) Prolonged Solitary Confinement is prohibited;
 - (iv) Indefinite Solitary Confinement is prohibited; and

- (v) Solitary Confinement may only be used as a last resort, in exceptional cases, and for as short a time as possible; be ordered by a competent authority; and be subject to independent review;
- (u) The *United Nations Basic Principles for the Treatment of Prisoners*, adopted by the United Nations General Assembly with Canada's vote, state that efforts to abolish Solitary Confinement as punishment and to restrict its use should be undertaken and encouraged;
- (v) The Inter-American Commission on Human Rights, a principal organ of the Organization of American States ("OAS") has decided that all OAS member states, including Canada, must adopt concrete measures to eliminate prolonged or indefinite Solitary Confinement in all circumstances ~~and that juveniles below the age of 18 must never be subjected to Solitary Confinement; and~~
- ~~(w) The *Convention on the Rights of the Child* (the "CRC"), as ratified by Canada, requires that no child be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The CRC applies to Canadians under the age of 18;~~
- ~~(x) The United Nations Committee on the Rights of the Child has advocated that, pursuant to CRC, the Solitary Confinement of juveniles under the age of 18 must be strictly prohibited and abolished;~~
- ~~(y) The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* asserts that member states must strictly prohibit all disciplinary measures constituting cruel, inhuman or degrading treatment, including Solitary Confinement and any other form of punishment that compromises the physical or mental health or well being of the juvenile; and~~
- (z) Customary international law, binding on Canada, requires that the use of Solitary Confinement must be kept to a minimum, reserved for the few cases where it is absolutely necessary, and used for as short a time as possible.

MR. REDDOCK'S EXPERIENCES IN SOLITARY CONFINEMENT

30. Mr. Reddock is 30 years of age. He pleaded guilty to one count of manslaughter in 2012 and was sentenced to a term of incarceration. Mr. Reddock has been subjected to Prolonged Administrative Solitary Confinement at several Federal Institutions, including the Kent Institution in Agassiz, British Columbia; the Mountain Institution in Agassiz, British Columbia; the Millhaven Institution in Bath, Ontario; the Kingston Penitentiary in Kingston, Ontario; the Saskatchewan Penitentiary in Prince Albert, Saskatchewan; the Bowden Institution in Innisfail, Alberta; and the Stony Mountain Institution in Stony Mountain, Manitoba.

31. In 2007, Mr. Reddock was incarcerated at the Kingston Penitentiary. He was involuntarily subjected to Prolonged Administrative Solitary Confinement from around late March 2007 until June 2007. Mr. Reddock was not provided with a reason for this detention.
32. In 2008, Mr. Reddock remained incarcerated at the Kingston Penitentiary. He was involuntarily subjected to Prolonged Administrative Solitary Confinement for more than one month. He was given no reason for this detention.
33. In 2009, Mr. Reddock was incarcerated at the Millhaven Institution. He was involuntarily subjected to Prolonged Administrative Solitary Confinement for more than one month. He was given no reason for this detention.
34. In 2013, Mr. Reddock was incarcerated at the Mountain Institution and the Kent Institution. He was involuntarily placed in Prolonged Administrative Solitary Confinement at the Mountain Institution and his Prolonged Administrative Confinement continued at the Kent Institution for a total period of four months. He was given no reason for this detention.
35. In 2014, Mr. Reddock was incarcerated at the Bowden Institution. He was involuntarily placed in Prolonged Administrative Solitary Confinement for more than one month. He was given no reason for this detention.
36. In 2016, Mr. Reddock was incarcerated at the Saskatchewan Penitentiary. He was involuntarily placed in Prolonged Administrative Solitary Confinement for one month. He was given no reason for this detention.
37. Later in 2016, Mr. Reddock was incarcerated at the Stony Mountain Institution. He was involuntarily placed in Prolonged Administrative Solitary Confinement for two months. He was given no reason for this detention.
38. In or around August 2016, Mr. Reddock was incarcerated at the Kent Institution. He was involuntarily subjected to Prolonged Administrative Solitary Confinement for approximately one month. Mr. Reddock was not given any reason for this detention. He was not provided with proper institutional clothing and was denied access to a telephone card, which meant that he could not call his family. Mr. Reddock brought these deficiencies to the attention of CSC staff, but they did not acknowledge his complaints. Out of desperation, Mr. Reddock dashed his head against the wall of a shower to attract the attention of CSC staff. Rather than provide Mr. Reddock with appropriate support, CSC staff used pepper spray on him. Mr. Reddock was then moved to another shower where he resumed banging his head against the wall. In response, CSC staff used pepper spray on his genital area.
39. Mr. Reddock was then held in a suicide observation cell for less than twenty-four hours before being returned to his regular cell in Administrative Solitary Confinement, where he was detained for a further two weeks.

40. Mr. Reddock ~~is presently~~ was incarcerated at the Kent Institution until about March 2, 2017. He ~~has been~~ was held involuntarily in Prolonged Administrative Solitary Confinement since from about January 6, 2017 until his transfer to the Donnacona Institution in Donnacona, Quebec in early March 2017. He ~~has been~~ was advised that this detention is was for his own protection. Mr. Reddock ~~has been~~ was kept in his cell for approximately 23 hours each day, during which time he ~~has been~~ was deprived meaningful human contact. He does not remember being outdoors in the his last month at the Kent Institution.
41. Prolonged Administrative Solitary Confinement caused Mr. Reddock severe stress and anxiety and rendered him profoundly depressed. He felt angry, confused, and hopeless. While in Prolonged Administrative Solitary Confinement and thereafter, Mr. Reddock had trouble separating his thoughts from reality, was confused, and hallucinated. He was paranoid and experienced difficulty relating to other inmates.
42. On many occasions, Mr. Reddock contemplated suicide because he could not bear continued Administrative Solitary Confinement. The indefiniteness of his detention was particularly disturbing. He made nooses on several occasions and resolved to take his own life, before deciding against it.
43. In order to escape the stress and anxiety of Prolonged Administrative Solitary Confinement, Mr. Reddock would crush Buspirone, a drug used to treat anxiety, and inhale the powder to knock himself unconscious. Upon awaking, he would inhale more Buspirone and lose consciousness again. This was Mr. Reddock's only means of coping with the hopelessness of Prolonged Administrative Solitary Confinement.
44. Mr. Reddock ~~anticipates being~~ was transferred to Donnacona Institution in Donnacona, Quebec in early March 2017, where ~~will remain~~ was held in Prolonged Administrative Solitary Confinement between about April 26, 2017 to about May 31, 2017. Mr. Reddock was released in June 2017.

MR. CAMPBELL'S EXPERIENCES IN SOLITARY CONFINEMENT

45. Mr. Campbell is 36 years old. Mr. Campbell served two sentences for armed robbery convictions between 2010 and 2017. Mr. Campbell is currently on parole and resides in Moncton. Mr. Campbell has been subjected to Prolonged Administrative Solitary Confinement at Dorchester Penitentiary in Dorchester, New Brunswick.
46. In March 2012, Mr. Campbell was incarcerated at Dorchester Penitentiary. He was involuntarily subjected to Prolonged Administrative Solitary Confinement for fifty-five (55) days. Mr. Campbell was kept in his cell for approximately 23 hours each day, during which time he was deprived of meaningful human contact. He was informed by CSC staff that the reason for his solitary confinement was that arrangements were being made to transfer him to a

minimum-security institution. Instead, after the Prolonged Administrative Segregation, Mr. Campbell was moved back to the general population at Dorchester Penitentiary.

47. Prolonged Administrative Solitary Confinement caused Mr. Campbell severe anxiety and feelings of depression. He felt angry, confused, and hopeless. Mr. Campbell experienced suicidal thoughts and urges while in Prolonged Administrative Solitary Confinement. Mr. Campbell was disturbed by the indefiniteness of his detention and the inability to determine the time in any way. Mr. Campbell often felt as if the walls of his cell were closing in on him.
48. Since his parole, Mr. Campbell has experienced feelings of depression and anxiety. He did not experience severe depression or anxiety until his time in Prolonged Administrative Solitary Confinement. Mr. Campbell has trouble sleeping and experiences frequent nightmares since his time in Prolonged Administrative Solitary Confinement.
49. Mr. Campbell has been on full parole since March 2017. He resides and is employed in Moncton.

CANADA KNOWINGLY ACTED UNLAWFULLY

50. Canada's policies and practices regarding the use of Prolonged Administrative Solitary Confinement are patently unreasonable and irrational, and they contravene both the Act and the Regulations. The formation and implementation of such policies and the authorization of such conduct have been done in bad faith and they cannot constitute acceptable operational choices.
51. The ready use of Prolonged Administrative Solitary Confinement in Federal Institutions, as well as the domestic and international consensus on the impropriety of these practices, have long been drawn to Canada's attention by the Office of the Correctional Investigator.
52. Nevertheless, throughout the Class Period, CSC has consistently denied that Solitary Confinement is practiced in the Federal Institutions. The CSC has taken this position in bad faith, and the Right Honourable Justin Trudeau, Prime Minister of Canada, has admitted that Solitary Confinement is a reality in this country. In the Prime Minister's November 2015 mandate letter to the Honourable Jodi Wilson-Raybould, Minister of Justice, he directed her to implement "recommendations from the inquest into the death of Ashley Smith regarding the restriction of the use of solitary confinement". Recommendation 29 from the Coroner's Inquest Touching the Death of Ashley Smith was a prohibition on Prolonged Solitary Confinement:

"That until segregation [Solitary Confinement] and seclusion is abolished in all CSC-operated penitentiaries and treatment facilities:

- (a) CSC restricts the use of segregation and seclusion to fifteen (15) consecutive days, that is, no more than 360 hours, in an uninterrupted period;
 - (b) That a mandatory period outside of segregation or seclusion of five (5) consecutive days, that is, no less than 120 consecutive hours, be in effect after any period of segregation or seclusion;
 - (c) That an inmate may not be placed into segregation or seclusion for more than 60 days in a calendar year; and
 - (d) That in the event an inmate is transferred to an alternative institution or treatment facility, the calculation of consecutive days continues and does not constitute a "break" from segregation or seclusion."
53. As a result of its intransigence, CSC and its servants and agents, have failed to retrofit the Federal Institutions, retrain staff, or update policies and procedures to accommodate and encourage less restrictive, but nevertheless adequate, alternatives to Solitary Confinement, in accordance with the recommendations of the Office of the Correctional Investigator and the domestic and international consensus. In so doing, Canada has realized cost savings. Further, CSC and its servants and agents have constructed new facilities to detain prisoners in Solitary Confinement, rather than exploring and implementing suitable alternatives.
54. Canada and its servants and agents knew or ought to have known that its policies for the use, administration, management, supervision and control of Prolonged Administrative Solitary Confinement were unlawful and in breach of their fiduciary duties, duty of care, and the *Charter* rights of Class members, as described below.
55. In the alternative, the use of Prolonged Administrative Solitary Confinement in Federal Institutions constitutes an operational decision by CSC, rather than a core policy decision, and Canada is not immune from suit in this regard.
56. Further, to the extent that relief is sought in tort, as set out below, it is expressly pleaded that such relief is sought for the vicarious liability of CSC's employees, servants, officers and agents. The Plaintiff pleads and relies on section 3 of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50.

CANADA OWED FIDUCIARY DUTIES TO THE CLASS MEMBERS AND ITS SERVANTS OWED A DUTY OF CARE TO THE CLASS MEMBERS

57. Canada and its servants and agents created, planned, established, operated, financed, supervised, controlled and regulated the entire system of Federal Institutions during the Class Period. While incarcerated at the Federal Institutions during the Class Period, the living conditions of Class members were wholly determined by Canada. Class members were entirely dependent on Canada and were subjected to the unilateral exercise of Canada's power and

discretion.

58. During the Class Period, Canada was responsible for:
- (a) the health, safety and well being of Federal prisoners;
 - (b) the management, operation and administration of CSC;
 - (c) procedures and regulations promulgated, and decisions and actions taken by the CSC and its employees, servants, officers and agents in Canada;
 - (d) overseeing the construction, operation, maintenance, ownership, financing, administration, supervision, inspection and auditing of the Federal Institutions;
 - (e) the creation, design and implementation of the policies regarding Solitary Confinement; and,
 - (f) the selection, control, training, supervision, and regulation of CSC staff and independent contractors, as well as others with responsibility for the care and control of Class members in Federal Institutions.
59. Because the relationship between Class members and Canada was one of trust, reliance and dependence, Canada owed non-delegable fiduciary duties to all Class members including, but not limited to, duties to:
- (a) act in the best interests of Class members and in the best interests of the population of the Federal Institutions as a whole;
 - (b) ensure that the Class members are treated fairly and respectfully;
 - (c) rehabilitate Class members and reintegrate them into the community;
 - (d) provide care and maintain conditions of detention at a reasonable standard;
 - (e) appropriately monitor the mental and physical health of Class members, including Class members with undiagnosed mental disorders, and provide appropriate care;
 - (f) protect Class members from severe disciplinary force;
 - (g) protect Class members from cruel and unusual treatment or punishment and torture, including:
 - (i) by implementing appropriate oversight and independent review for the decision to administer and continue Administrative Solitary Confinement; and

- (ii) by prohibiting Prolonged Solitary Confinement;
 - ~~(l) protect Class members under the age of 18 from Solitary Confinement;~~
 - (h) adhere to domestic and international laws, conventions, treaties, rules, norms, and commentary regarding the treatment of prisoners, including the prohibition of Prolonged Solitary Confinement; and
 - (i) create appropriate policies and procedures to ensure the performance of the duties set out above.
60. The Class members relied upon Canada, to their detriment, to fulfill its fiduciary obligations.
61. Because of the relationship of proximity between Canada and Class members, described above, Canada also owed a common law duty of care to all Class members, which duty required its treatment of Class members to conform with the standard of care of a reasonable and prudent prison operator, administrator, and manager. In this regard, the discharge of Canada's duties were the responsibility of its servants and agents, each of whom owed a common law duty of care to the Class members for whom they were responsible.

CANADA SYSTEMATICALLY MISTREATED CLASS MEMBERS

62. Particulars of Canada's systemic mistreatment of all Class members ("**Canada's Misconduct**") include the following:
- (a) failure to take a responsible and good faith interest in the operation of the Federal Institutions and supervision of the Class members;
 - (b) subjecting Class members to Prolonged Administrative Solitary Confinement, which constitutes cruel, inhuman, and degrading treatment, and in some cases, torture;
 - (c) subjecting adolescent and young adult Class members ~~under the age of 18~~ to Solitary Confinement, which constitutes cruel, inhuman, and degrading treatment, and in some cases, torture;
 - (d) subjecting Class members to Administrative Solitary Confinement, which constitutes a more severe restriction on their liberty, a further detention not ordered at the time of sentencing, and a punishment, despite the fact that they were not convicted of a subsequent offence;
 - (e) failure to implement appropriate safeguards to ensure that it was necessary and appropriate to subject Class members to Solitary Confinement, considering:
 - (i) the best interests of the Class members; and

- (ii) the best interests of the population of the Federal Institution as a whole;
- (f) failure to implement an appropriate mechanism to review the continued Solitary Confinement of Class members and terminate their Solitary Confinement at the earliest possible opportunity;
- (g) failure to investigate and oversee the psychological, mental and physical health of Class members in the Federal Institutions;
- (h) failure to provide adequate psychiatric and psychological care for Class members;
- (i) engaging in forceful and punitive measures in order to control and contain Class members;
- (j) failure to properly train and supervise CSC staff;
- (k) failure to follow CSC's policies regarding the use of Solitary Confinement, Administrative Solitary Confinement, and Prolonged Administrative Solitary Confinement;
- (l) putting Canada's own interests, and those of its servants and agents, ahead of the interests of Class members;
- (m) failure to construct facilities to provide Class members with an environment that would foster meaningful human contact while addressing appropriate security concerns;
- (n) failure to adequately investigate alternatives to Solitary Confinement and Prolonged Solitary Confinement;
- (o) realizing cost savings by constructing and managing the Federal Institutions in a manner that prioritizes Solitary Confinement over appropriate alternatives with lesser restrictions on the liberty of Class members and a less detrimental effect on their health and wellbeing;
- (p) failure to provide adequate financial resources or support to properly care and provide for Class members;
- (q) failure to respond adequately, or at all, to complaints or recommendations that were made for the care of Class members, including with respect to the use of Solitary Confinement;
- (r) failure to safeguard the physical and emotional needs of Class members; and

- (s) failure to implement an appropriate mechanism to monitor the mental and physical health of Class members, including Class members with undiagnosed mental disorders, and provide appropriate care.
63. Canada's Misconduct contravened the Act, including the requirements that:
- (a) "no person shall administer, instigate, consent to or acquiesce in any cruel, inhumane or degrading treatment or punishment of an offender";¹⁴
 - (b) the CSC "shall take all reasonable steps to ensure that penitentiaries, the penitentiary environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person's sense of personal dignity";¹⁵
 - (c) "inmates are entitled to reasonable opportunities to assemble peacefully and associate with other inmates within the penitentiary, subject to such reasonable limits as are prescribed for protecting the security of the penitentiary or the safety of persons";¹⁶ and
 - (d) the CSC "shall provide every inmate with...reasonable access to non-essential mental health care that will contribute to the inmate's rehabilitation and reintegration into the community".¹⁷
64. Canada's Misconduct also contravened the Regulations, including the requirement that the CSC "ensure a safe and healthful penitentiary environment" and "take all reasonable steps to ensure the safety of every inmate".¹⁸
65. Canada's Misconduct was perpetrated by CSC's servants and agents, for whom Canada was responsible. These individuals made, and continue to make, decisions with respect to the design, organization, administration, and staffing of the Federal Institutions, as well as the policies and procedures applied therein. These individuals also made decisions with respect to the initiation, review, and continuation of Administrative Solitary Confinement, and ultimately, Prolonged Administrative Solitary Confinement. Canada's Misconduct was the misconduct of CSC's servants and agents, and each of whom breached duties owed to Class members, as described below. The identities of the particular servants, officers, employees, and agents who perpetrated Canada's Misconduct are known to Canada.
66. Canada is vicariously liable for the impugned acts of CSC's servants and agents. There is a sufficiently close relationship between CSC and its servants, officers, employees, and agents that it would be fair and just to hold Canada vicariously

¹⁴ See s. 69 of the Act.

¹⁵ See s. 70 of the Act.

¹⁶ See s. 73 of the Act.

¹⁷ See ss. 86(1), 3(b), 5(b) and 15.1(2) of the Act.

¹⁸ See s. 83 of the Regulations.

liable for their tortious conduct. Further, the wrongs of CSC's servants, officers, employees, and agents were perpetrated in the course of their employment by CSC, such that Canada introduced the risk of the wrong.

CANADA BREACHED ITS FIDUCIARY DUTIES AND ITS DUTY OF CARE TO THE CLASS MEMBERS, COMMITTED INTENTIONAL TORTS AGAINST THEM, AND BREACHED THEIR RIGHTS UNDER THE *CHARTER OF RIGHTS AND FREEDOMS*

67. Canada systematically breached its fiduciary duties to the Class members, the particulars of which include Canada's Misconduct. Through its servants, officers, employees and agents, Canada performed its fiduciary duties neglectfully or carelessly, in breach of its special responsibility to ensure the safety and well-being of the Class.
68. Canada's breach of its fiduciary duties to the Class members caused damage to them, the particulars of which are set out below.
69. In breach of its duty of care to Class members, CSC's servants and agents also acted with systemic negligence in their establishment, operation, regulation, financing, supervision and control of the Federal Institutions, the particulars of which include Canada's Misconduct. CSC's servants and agents breached common law duties to the Class members through their failure to provide adequate conditions of detention and care to the Class members. Canada is vicariously liable for these breaches.
70. The negligence of CSC's servants, officers, employees, and agents caused damage to the Class members, the particulars of which are set out below. Such damages were reasonably foreseeable by Canada.
71. Furthermore, the decision to subject the Class members to Prolonged Solitary Confinement was deliberate, premeditated, and done with full knowledge of the likely consequences. By subjecting the Class members to Prolonged Solitary Confinement, CSC's servants and agents committed the intentional torts of false imprisonment, intentional infliction of mental suffering, assault, and battery as against the Class members. These intentional torts caused the Class members damage, the particulars of which are set out below.
72. Additionally, all Class members, including the Plaintiff, are persons who have rights under the *Canadian Charter of Rights and Freedoms* (the "*Charter*") including, but not limited to: the right to care and treatment at community standards; the right to be rehabilitated and reintegrated into the community; the right to be free from severe disciplinary force; the right to be free from additional punishment for the same offence; the right to due process and natural justice in the imposition and continuation of a punishment; and the right to be free from cruel and unusual treatment or punishment.
73. At all material times, the Class members were within the knowledge,

contemplation, power and control of Canada. Through its servants and agents, CSC breached the Class members' *Charter* rights, the particulars of which include Canada's Misconduct. These acts and omissions amounted to:

- (a) a deprivation of liberty that is not in accordance with the principles of fundamental justice, contrary to section 7 of the *Charter*;
 - (b) an arbitrary detention or imprisonment, contrary to section 9 of the *Charter*;
 - (c) where Solitary Confinement was ordered without a conviction for a further offence or disciplinary infraction, including instances where Solitary Confinement was ordered for the protection of the prisoner, it constitutes:
 - (i) a subsequent punishment or residual deprivation of liberty over and above the sentence that the prisoner was condemned to serve, contrary to sections 7 and 11(h) of the *Charter*; and
 - (ii) a deprivation of the prisoner's liberty contrary to the principle of fundamental justice that detention for the protection of the prisoner may only be ordered in the best interest of the prisoner and never on account of the wrongful acts of others, in contravention of section 7 of the *Charter*; and
 - (d) cruel and unusual treatment or punishment, contrary to section 12 of the *Charter*.
74. The aforementioned breaches cannot be justified in a free and democratic society, and section 1 of the *Charter* is of no application.
75. 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.
76. There are no countervailing considerations that render damages inappropriate or unjust in this case.

DAMAGES SUFFERED BY CLASS MEMBERS

77. As a consequence of the breach of fiduciary duties, negligence, intentional torts, and breach of the Class members' *Charter* rights by CSC and its servants and

agents, for whom Canada is vicariously liable, Class members suffered injury and damages including:

- (a) assault and battery;
- (a) emotional abuse;
- (b) psychological abuse;
- (c) an impairment of mental and emotional health amounting to severe and permanent disability;
- (d) infringement of liberty rights;
- (e) the infliction of additional punishments for the same offence, and without any subsequent offence;
- (f) infringement on their security of the person;
- (g) arbitrary detention;
- (h) cruel, unusual or degrading treatment;
- (i) torture;
- (j) impaired ability to participate in or transition to a normal family life;
- (k) undue alienation from family, spouses and children;
- (l) an impairment of the capacity to function in the work place and a permanent impairment in the capacity to earn income;
- (m) the need for ongoing psychological, psychiatric and medical treatment for disorders resulting from the experience of Prolonged Administrative Solitary Confinement; and,
- (n) pain and suffering.

78. Additionally, Prolonged Administrative Solitary Confinement increases the likelihood that prisoners subjected to Prolonged Administrative Solitary Confinement will again be subjected to Solitary Confinement, or that they will lengthen their sentences by committing disciplinary infractions.

79. The foregoing damages resulted from the breach of fiduciary duties, negligence, intentional torts, and breach of the Class members' *Charter* rights by CSC and its servants and agents.

80. CSC and its servants and agents knew, or ought to have known, that as a consequence of its mistreatment of Class members, the Plaintiff and Class

members would suffer significant mental, emotional, physical, and psychological harm, including the harms described above.

RESTITUTIONARY RELIEF

81. In the alternative, as described above, Canada realized cost savings from Canada's Misconduct, including breaches of the Act and the Regulations (the "Unjust Gains"). As described above, Canada realized the Unjust Gains by breaching its fiduciary duties to Class members. As a faithless fiduciary, Canada must account to the Class and disgorge the Unjust Gains. The Class is entitled to a constructive trust over these monies.
82. In the further alternative, Canada was unjustly enriched to the extent of the Unjust Gains. The Unjust Gains resulted from expenditures that Canada was obliged to make on behalf of the Class, and these cost savings were realized only through Canada's unlawful contraventions of the Act and the Regulations.
83. The Class members suffered a corresponding deprivation when they were denied appropriate care and accommodation and subjected to Prolonged Solitary Confinement instead of the less restrictive alternatives that Canada was obliged to fund. There is no juristic reason that Canada should be entitled to retain its unjust gains, and they must be disgorged to the Class. The Class is entitled to a constructive trust over these monies.
84. In the further alternative, the Class is entitled to waive the torts of negligence, false imprisonment, intentional infliction of mental suffering, assault, and battery. The Class suffered the consequences of Canada's Misconduct, including its breaches of the Act and the Regulations, which produced the Unjust Gains. As an alternative remedy, the Class is entitled to a disgorgement of Canada's gains from its wrongful conduct, namely, the Unjust Gains. The Class is entitled to a constructive trust over these monies.

PUNITIVE AND EXEMPLARY DAMAGES

85. Canada, including its ministers, senior officers, directors, and senior staff, had specific and complete knowledge of the widespread physical, psychological, and emotional, abuse of Class members that occurred during the Class Period, including the routine detention of Class members in Prolonged Administrative Solitary Confinement. Despite this knowledge, Canada continued to operate the Federal Institutions in an irresponsible and indifferent fashion and authorized the perpetration of grievous harm to the Class members, including by subjecting them to Prolonged Administrative Solitary Confinement.
86. The high-handed and callous conduct of Canada warrants the condemnation of this Honourable Court. At all material times, Canada asserted near total control over the lives of the Class members, and it conducted its affairs with wanton and callous disregard for their interests, safety and well-being.

87. Over a lengthy period, the Plaintiff and the Class members were treated in a manner that could only result in aggravated and increased mental and physical suffering for a vulnerable population. Canada's violations of Class members' rights have irreparably damaged their lives.

MISCELLANEOUS

88. Full particulars respecting the daily care, operation and control of the Federal Institutions, including with respect to the use of Prolonged Administrative Solitary Confinement at Federal Institutions, are within Canada's knowledge, control and possession.
89. This action asserts no claim for damages in respect of Solitary Confinement that:
- (a) took place after February 24, 2013;
 - (b) lasted for more than 72 consecutive hours, including consecutive periods totalling more than 72 hours separated by periods of less than 24 hours; and
 - (c) took place in a federal penitentiary situated in Quebec.
90. The Plaintiff proposes this action be tried at the City of Toronto.

March 3, 2017

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Appendix "A"

Excluded Persons suffered from their disorder as follows:

- Significant impairment in judgment (including inability to make decisions; confusion; disorientation);
- Significant impairment in thinking (including constant preoccupation with thoughts, paranoia; delusions that make the offender a danger to self or others);
- Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders, staffs or follow correctional plan);
- Significant impairment in communications that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Significant impairment due to anxiety (panic attacks; overwhelming anxiety) that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Other symptoms: hallucinations; delusions; severe obsessional rituals that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
- Chronic and severe suicidal ideation resulting in increased risk for suicide attempts;
- Chronic and severe self-injury; or,
- A GAF score of 50 or less.

JULLIAN JORDEA REDDOCK AND CARSON
CAMPBELL

Plaintiffs

and

ATTORNEY GENERAL
OF CANADA
Defendant

Court File No.: CV-17-570771-00CP

Proceeding under the *Class Proceedings Act, 1992*

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

AMENDED STATEMENT OF CLAIM

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