

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

**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*

**REPLY TO THE STATEMENT OF DEFENCE**

1. The Plaintiffs repeat and rely on the arguments set out in their Amended Statement of Claim. The Plaintiffs rely as well on the defined terms set out in their Amended Statement of Claim.
2. Except as admitted herein or in their Amended Statement of Claim, the Plaintiffs deny each and every allegation contained in the Statement of Defence.
3. The Plaintiffs admit the allegations contained in paragraphs 9, 10, 13, 16, and 18 of the Statement of Defence.
4. The Plaintiffs have no knowledge, or insufficient knowledge, of the allegations contained in paragraphs 17, 19, 20 of the Statement of Defence.
5. In reply to paragraphs 2 and 30 of the Statement of Defence, several Canadian courts have decided that Canada's use of what the Act describes as "administrative segregation" constitutes solitary confinement as the term is understood at international law. These courts include the Court of Queen's Bench of Alberta (see *Hamm v Attorney*

*General of Canada (Edmonton Institution)*, 2016 ABQB 440 [*“Hamm v. AGC”*], at para. 15); this Honourable Court (see *Corporation of the Canadian Civil Liberties Association v. Her Majesty the Queen*, 2017 ONSC 7491 [*“CCLA v. HMTQ”*], at para. 46); and the Supreme Court of British Columbia (see *British Columbia Civil Liberties Association v Canada (Attorney General)*, 2018 BCSC 62 [*“BCCLA v. Canada”*], at para. 137).

6. The Plaintiffs invoke the doctrines of *res judicata*, estoppel, and abuse of process and plead that Canada is barred from denying that what the Act describes as administrative segregation constitutes solitary confinement. Paragraphs 2 and 30 of the Statement of defence should be struck, without leave to amend.

7. Additionally, by continuing to deny that what the Act and the Regulations define as administrative segregation constitutes solitary confinement, despite the courts' contrary decisions, Canada, by its servants and agents, has perpetuated Canada's misconduct and the breaches of duties to Class members set out in the Amended Statement of Claim by failing to implement and apply appropriate safeguards to govern the use of solitary confinement. This high handed conduct merits an award of punitive damages.

8. In reply to paragraphs 44 and 82 of the Statement of Defence, several Canadian courts have decided that Prolonged Administrative Solitary Confinement in Federal Institutions has caused and continues to cause severe harm to Class members, including severe mental suffering and emotional harm. These courts include this Honourable Court (see *CCLA v. HMTQ*, *supra*, at paras. 89, 123, 124, 127) and the Supreme Court of British Columbia (see *BCCLA v. Canada*, *supra*, at para. 247).

9. The Plaintiffs invoke the doctrines of *res judicata*, estoppel, and abuse of process and plead that Canada is barred from denying that Prolonged Administrative Solitary Confinement causes severe harm to Class members. Paragraphs 44 and 82 of the Statement of defence should be struck, without leave to amend.

10. Additionally, by continuing to deny that Prolonged Administrative Solitary Confinement causes severe harm, despite the courts' contrary decisions, Canada, by its servants and agents, has perpetuated Canada's Misconduct and the breaches of the duties to Class members set out in the Amended Statement of Claim by failing to implement and apply appropriate safeguards to manage a dangerous practice. This high handed conduct merits an award of punitive damages.

11. As a result of Canada's continued denial of the severe harm caused by Prolonged Administrative Solitary Confinement, it has deprived Class members of any meaningful review of the decision to admit them to Solitary Confinement and to maintain their detention in Solitary Confinement. In particular, Canada, by its agents and servants, has:

- (a) deprived Class members of any independent review of their Solitary Confinement, and as such, their detention in these conditions constitutes a deprivation of liberty and security of the person not in accordance with the principles of fundamental justice, contrary to section 7 of the *Charter*, which is not justified under section 1 of the *Charter*;
- (b) deprived Class members of their right to counsel at the review of their detention in Solitary Confinement by failing to facilitate both access to counsel prior to the first review of their detention and confidential communications with counsel, contrary to section 10(b) of the *Charter*, which cannot be justified in a free and democratic society pursuant to section 1 of the *Charter*; and
- (c) systematically failed to appropriately consider and monitor, and failed to implement policies and procedures requiring its servants and agents to appropriately consider and monitor, the state of health and health needs of Class members when ordering or continuing Solitary Confinement and ensure that Solitary Confinement is consistent with the state of health and health needs of Class members, contrary to sections 69 and 87 of the *Act* and sections 7 and 12 of the *Charter*.

12. The conduct set out above has unduly caused or prolonged Class members' detention in Prolonged Administrative Solitary Confinement, causing or aggravating the damages set out in the Amended Statement of Claim.

13. In reply to paragraphs 85, 89, and 91 of the Statement of Defence, several Canadian courts have decided that Prolonged Administrative Solitary Confinement in Federal Institutions is contrary to responsible medical practice, contravenes section 7 of the *Charter* and is not saved by section 1 of the *Charter*. These courts include this Honourable Court (see *CCLA v. HMTQ*, *supra*, at para. 157) and the Supreme Court of British Columbia (see *BCCLA v. Canada*, *supra*, at paras. 545, 601, 609).

14. The Plaintiffs invoke the doctrines of *res judicata*, estoppel, and abuse of process and plead that Canada is barred from denying that Prolonged Administrative Solitary Confinement is contrary to section 7 of the *Charter* and is not saved by section 1 of the *Charter*. Paragraphs 85 and 89, and 91 of the Statement of defence should be struck, without leave to amend.

15. Additionally, by continuing to deny that Prolonged Administrative Solitary Confinement is contrary to section 7 of the *Charter*, despite the courts' contrary decisions, Canada, by its servants and agents, has perpetuated Canada's Misconduct and the breaches of the duties to Class members set out in the Amended Statement of Claim by failing to bar an unconstitutional practice. This high handed conduct merits an award of punitive damages.

16. In reply to paragraph 105, the Plaintiffs deny that any of their claims or the claims of Class members are statute-barred under the *Limitations Act*, R.S.O. 1990, c. 15, as amended, the *Limitations Act, 2002*, S.O. 2002, c. 24, Sch. B, or any other limitations statute of any other province or territory that may apply.

17. For those claims governed by the *Limitations Act*, R.S.O. 1990, c. 15, and similar limitations statutes of other provinces and territories, no limitation period applies to the Plaintiffs' claims and those of Class members in respect of Canada's breaches of fiduciary duty.

18. Furthermore, the Plaintiffs' claims and those of Class members were only discoverable during the limitation period applicable to those claims.

19. Further, or in the alternative, the Plaintiffs and Class members were incapable of commencing a proceeding prior to the commencement of the within Action because of their physical, mental and/or psychological condition, or because they were persons under a disability who were not represented by a litigation guardian in respect of the claim.

20. The Plaintiffs plead and rely on the federal *Crown Liability and Proceedings Act*, RSC 1985, c C-50, the British Columbia *Limitations Act*, SBC 2012, c.13 and *Limitations Act*, RSBC 1996, c. 266; the Alberta *Limitations Act*, RSA 2000, c. L-12; the Saskatchewan *Limitations Act*, SS 2004, c. L-16.1; the Manitoba *Limitation of Actions Act*, CCSM c. L150; the Ontario *Limitations Act*, R.S.O. 1990, c. L.15, and *Limitations Act, 2002*, S.O. 2002, c. 24, Sch. B; the *Civil Code of Québec*, S.Q. 1991, Book 8; the New Brunswick *Limitation of Actions Act*, SNB 2009, c L-8.5; the Nova Scotia *Limitation of Actions Act*, SNS 2014, c. 35; the Prince Edward Island *Statute of Limitations*, RSPEI 1988, c S-7; the Newfoundland and Labrador *Limitations Act*, SNL 1995, c L-16.1; the Yukon *Limitation of Actions Act*, RSY 2002, c 139; the Northwest Territories *Limitation of Actions Act*, RSNWT 1988, c L-8; and the Nunavut *Limitation of Actions Act*, RSNWT (Nu) 1988, c L-8, and such other limitations statutes as are applicable.

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Proceeding under the *Class Proceedings Act, 1992*

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
Proceeding commenced at Toronto

**REPLY TO STATEMENT OF DEFENCE**

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