



FEDERAL COURT

PROPOSED CLASS PROCEEDING

**GARRETT MOORE, KELLY MCQUADE, DAVID
COMBDEN, and GRAHAM WALSH**

PLAINTIFFS

- AND -

THE ATTORNEY GENERAL OF CANADA, representing Her
Majesty the Queen in Right of Canada

DEFENDANT

Proceeding Under Part 5.1 of the *Federal Court Rules*, SOR/98-106

STATEMENT OF CLAIM

TO THE DEFENDANT

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

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

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

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

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

Date: SEP 16 2020

Issued by:  _____
Adam Young
Registry Officer
Agent du greffe

Address of local office: 1720-1801 Hollis Street
Halifax, NS B3J 3N4

TO: **HER MAJESTY THE QUEEN**
C/O THE ATTORNEY GENERAL OF CANADA
284 Wellington Street
Ottawa, ON. K1A 0H8

A. DEFINITIONS

1. The capitalized terms used in the Statement of Claim have the meanings and refer to the definitions indicated below:
 - a. “**Class**” and “**Class Members**” means all persons who are or have been enrolled as Officers and/or Members in the Royal Canadian Mounted Police and who have been diagnosed with, or suffered from, an Operational Stress Injury;
 - b. “**Crown**” means Her Majesty the Queen in Right of Canada, as represented by the Attorney General of Canada, and includes its contractors, subcontractors, agents, servants, employees, appointees, and departments;
 - c. “**Mental Health Services**” means all mental health care programs, protocols, policies, and procedures, including diagnostic and treatment services, policies for the promotion of mental health in the workplace, programming for the provision of professional mental health support, and tailored training and education efforts to support first responder employees;
 - d. “**Mountie**” means an Officer or Member of the Royal Canadian Mounted Police, as each are defined in the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, and who are thereby employed with the Royal Canadian Mounted Police;
 - e. “**Operational Stress Injury**” or “**OSI**” means any persistent psychological difficulty that results from operational duties with the RCMP and causes impaired functioning, including but not limited to diagnosed medical conditions such as Post-Traumatic Stress Disorder, depression, anxiety, and panic attacks;
 - f. “**Post-Traumatic Stress Disorder**” or “**PTSD**” means a mental disorder that may occur after a person experiences or witnesses a traumatic event, the symptoms of which include persistent flashbacks, situational avoidance, disassociation, negative thoughts and moods, and/or disproportionate reactivity; and
 - g. “**Royal Canadian Mounted Police**” or “**RCMP**” means the police force constituted by the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, consisting of Officers and other Members, with statutory duties to preserve the peace, prevent crime, and apprehend offenders in furtherance of the laws of Canada.

B. THE CLAIM

2. The Plaintiffs, on behalf of the Class Members, claim:
 - a. an Order certifying this action as a class proceeding and appointing the Plaintiffs, Garrett Moore, Kelly McQuade, David Combden, and Graham Walsh, as Representative Plaintiffs for the Class;
 - b. a declaration that the Crown breached its common law duties to the Plaintiffs and Class in relation to its operation, supervision, maintenance, and oversight of occupational health and safety standards and Mental Health Services in the RCMP;
 - c. a declaration that the Crown breached section 15(1) of the *Canadian Charter of Rights and Freedoms* (“*Charter*”) in relation to its discriminatory treatment of Class Members, and that such a breach was not justified under section 1 of the *Charter*;
 - d. a declaration that the Crown is liable to the Plaintiffs and Class for damages caused by its breach of common law duties, and for damages under section 24(1) of the *Charter* in respect of its violation of the Class’ rights and freedoms set out in section 15(1) of the *Charter*;
 - e. damages for the Crown’s breach of its duty of care and violation of the class’ rights and freedoms as set out in section 15(1) of the *Charter*, as follows:
 - i. general damages, including for pain and suffering and loss of amenities of life;
 - ii. special damages, the particulars of which will be delivered at a later date;
 - iii. damages under section 24(1) of the *Charter* arising from the Crown’s violations of section 15(1) *Charter* rights of the Class;
 - iv. damages for the provision of adequate funding to design, implement, operate, and administer occupationally appropriate Mental Health Services for Class Members and support services for their families, with the goals of early detection, treatment, and reasonable accommodation for those suffering from Operational Stress Injuries within the RCMP;
 - f. punitive and exemplary damages, for which the Crown is liable;
 - g. an Order for the assessment of individual damages of members of the Class pursuant to Rule 334.26 of the *Federal Courts Rules*;

- h. pre-judgment and post-judgment interest, pursuant to the *Federal Courts Act*, R.S.C. 1985, c. F-7;
- i. costs of the action;
- j. the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to Rule 334.38 of the *Federal Courts Rules*; and
- k. such further and other relief as this Honourable Court deems just.

C. OVERVIEW

3. The RCMP is responsible for providing a psychologically healthy and safe workplace and reducing the incidence of occupational injuries and illnesses. Yet, the Crown has failed to provide adequate Mental Health Support services that are specifically designed to address the complex needs of RCMP members, including those with Operational Stress Injuries. The RCMP has not developed a strategy to closely monitor and adequately detect deterioration in its employees' mental health, and has not adequately and in a timely manner met its members' mental health needs, including the needs of those returning to work from mental health sick leave, leading to prolonged injury, loss and damages.
4. Poor mental health and Operational Stress Injuries have a direct impact on the well-being of Mounties and their families. Left unmanaged and unsupported, mental health issues can lead to workplace conflict, high turnover, worsening psychological injury, premature death by suicide, and affect the RCMP's capacity to serve and protect Canadians.
5. Mounties suffering from Operational Stress Injuries experience discrimination and stigma in their workplace. The discriminatory culture of the RCMP is caused by the leadership's perpetuation, tolerance, and encouragement of a culture of silence, use of stigmatizing language surrounding Operational Stress Injuries, and discouragement of treatment. This culture creates serious impediments to the effective investigation and treatment of mental health injuries within the RCMP. The discriminatory culture is also caused by the Crown's failure to acknowledge the mental health crisis in the RCMP and implement and provide appropriate training, targeted and timely access to Mental Health Services, and rehabilitative efforts for reintegration for Mounties who have suffered from, or received a diagnoses of, Operational Stress Injuries. As a result, Mounties are forced to suffer in silence and they avoid necessary reporting and treatment, ultimately exacerbating their injuries and chance of successful rehabilitation.

6. Mounties who do eventually seek help for their Operational Stress Injuries are faced with delays and obstacles to adequate and timely treatment, are ostracized and stigmatized as weak and unfit, are subjected to retaliation and discriminatory behaviour by peers and supervisors, and experience alienation, mental suffering, humiliation, and loss of dignity. Further, they experience discrimination and negative repercussions because of their Operational Stress Injury, even when cleared by a physician as fit for return to work, including inhibited promotion, advancement or transfer prospects.
7. As a result, Occupational Stress Injuries are pervasive in the RCMP, causing significant harm, humiliation, loss of opportunities and earning capacity, degradation and, for some, loss of life. Mounties suffering, or formerly suffering, from Operational Stress Injuries are denied equality and equal protection and benefit under the law, and the conduct of the Crown violates basic standards, including section 15(1) of the *Charter*. The conditions in the RCMP, and their serious detrimental impacts arose and continue to persist due to the Crown's breach of its duty of care owed to the Plaintiffs and Class Members, and from its unlawful discrimination.

D. THE PARTIES

(i.) The Plaintiffs

Garrett Moore

8. The Plaintiff, Garrett Moore, of the Village of Chester, in the Province of Nova Scotia, is a Corporal in the RCMP.
9. Cpl. Moore has been employed as a member of the RCMP since 2012, following his graduation from a six-month Cadet Training Program in Regina, Saskatchewan. During this training, Cpl. Moore recalls an exclusive focus on the practicalities of policing. No mandatory programming was offered in preparation for the mental health consequences of serving in Canada's national police force; instead, optional books regarding emotional survival in law enforcement were recommended.
10. Shortly after graduation from the Cadet Training Program, Cpl. Moore was posted to Iqaluit, Nunavut. Prior to the posting, Cpl. Moore underwent a mandatory Northern Medical Isolated Post Clearance examination; he was asked a series of simple questions and, upon returning what were obviously the correct answers to pass, he formally began his first deployment in Nunavut.

11. During his first years as a Mountie, Cpl. Moore was frequently exposed to scenes of violence, danger, and tragedy while posted in a remote, northern region. Despite the requirement that he respond in traumatic situations as a condition of employment, the RCMP did not provide any Mental Health Services in Nunavut. Accordingly, Cpl. Moore struggled with mental health alone following his first series of calls to violent crime scenes and gruesome critical incidents.
12. In 2014, Cpl. Moore was transferred to Sherwood Park, Alberta – an urban service area outside the eastern boundary of Edmonton. During this time, Cpl. Moore participated in both plainclothes and traditional policing operations with the RCMP and continued to respond to traumatic situations as a routine function of his employment.
13. In 2017, Cpl. Moore was again asked to complete a Northern Medical Isolated Post Clearance examination in advance of deployment to Nunavut. This time, the examination revealed that Cpl. Moore was at marked risk for mental health issues, attributable to his years of service in the RCMP and attendant exposure to violence and imminent physical danger without treatment. Despite this finding that Cpl. Moore could not be safely re-deployed to Nunavut, he was called to meet with a health professional, who noted his history of surviving similarly isolating postings and authorized his return to Iqaluit.
14. During his second posting in Nunavut, Cpl. Moore experienced increased symptoms of deteriorating mental health, which ultimately led to a diagnosed Operational Stress Injury in 2018. Given the lack of access to any RCMP Mental Health Services in Nunavut, Cpl. Moore was required to travel to Ottawa for this diagnosis, where he also received an urgent medical recommendation indicating that he could not safely work as a Mountie in Nunavut without immediately applied restrictions. While this documentation was forwarded to the appropriate officials, the RCMP ignored the recommendation and told Cpl. Moore he could not be accommodated. As a result, he continued to work in a remote setting without restrictions or accommodation while suffering from an Operational Stress Injury. He experienced discrimination and belittling comments from superiors and peers simply because he sought medical help.
15. As a result of this failure to accommodate his mental illness, Cpl. Moore was called upon to serve in an active shooter incident in December 2018, where an individual shot at Mounties for several hours before being apprehended. In the days that followed, Mounties' calls for increased Mental Health Services to help them process this life-threatening situation were ignored. RCMP officials indicated that Mounties would simply have to “work through” their mental health struggles

following the incident. When Occupational Health and Safety Officers finally arrived for a medical debriefing, a full week after the incident, superior officers intentionally watched the meeting room – held in the centre of where management sits – to note which members accessed Mental Health Services. Those who did were treated and taunted as insufficiently masculine and resilient for a successful career and advancement opportunities. Following the debriefing, Mounties were told by senior ranking officers that “we are now back to business as usual” and to get back to work.

16. Due to the lack of access to treatment or adequate response to his Operational Stress Injury, in early 2019, Cpl. Moore was diagnosed with PTSD after assessment at an OSI Clinic in Ottawa, and was considered “Off Duty Sick”, no longer being able to work in the North. Although Cpl. Moore took active steps to secure a diagnosis, he worked in a culture of stigma and silence within the RCMP that prevented many colleagues from seeking any such medical attention. He frequently overheard supervisors talking openly about Mounties’ mental health in a derogatory manner, including open discussions about how those suffering from Operational Stress Injuries were abusing the system to obtain favourable transfers and actively discouraging those struggling with mental health from taking time to recover. Since his first indication of mental health challenges, Cpl. Moore experienced both overt and implicit discrimination.
17. While designated Off Duty Sick, Cpl. Moore attempted to obtain a transfer to Nova Scotia to obtain treatment at an OSI Clinic, as prescribed by his treating physician and health services. Management denied the transfer to Nova Scotia. During this time, Cpl. Moore was pulled into a meeting by management and was questioned about the legitimacy of his diagnosis. Cpl. Moore began reporting incidents of workplace harassment to RCMP management, which were uniformly ignored. Finally, in 2019, he filed a formal harassment complaint. He experienced the complaint process as biased and ineffective. It involved inappropriate probing of his private health records; suppressing documentation relating to his “Off Duty Sick” status; and improper modification of records which changed Cpl. Moore’s health designation from “Off Duty Sick” to “Other.”
18. Even after Cpl. Moore submitted medical documentation detailing the necessity of an urgent transfer from Nunavut to access treatment in light of his PTSD diagnosis, the RCMP took months to finalize a transfer – a delay which was in part occasioned by supervisors’ discriminatory refusal to transfer him within a reasonable distance from the OSI Clinic in which he was to receive treatment. Cpl. Moore applied for two postings compatible with his rank within the RCMP, but even though he should have been considered a “Priority” for transfer, he was denied on both occasions. He was ultimately offered a posting an hours’ drive away from an OSI Clinic.

19. During the transfer process, RCMP officials offered Cpl. Moore a medical discharge as a preferred alternative to equitable accommodation, and his requests for a less operational posting to manage his PTSD symptoms were met with opposition, derogatory comments, and recommendations that he simply leave the force. Cpl. Moore eventually accepted the posting an hour away from the OSI Clinic in Nova Scotia and continues to face discriminatory treatment from supervisors simply for seeking help for the psychological injuries he suffered in service of the RCMP.

Kelly McQuade

20. The Plaintiff, Kelly McQuade, of the City of Saint Albert, in the Province of Alberta, has been a Constable in the RCMP since 2005.
21. Cst. McQuade commenced her RCMP career in Burnaby, British Columbia. Early on, Cst. McQuade learned the importance of maintaining her mental health while serving in the RCMP. She sought treatment on her own from a psychologist in 2010 in response to workplace stressors, such as regularly witnessed scenes of violence and threats of bodily harm. In 2011, Cst. McQuade was diagnosed with PTSD as a result of on-duty related incidents. She remained an active duty RCMP member after her diagnosis and throughout her psychological treatment, which assisted her in developing coping skills to effectively manage her symptoms.
22. Cst. McQuade was an experienced, high performing member of the RCMP when she applied for a transfer to Nunavut in 2017.
23. When she arrived in Nunavut in 2017, Cst. McQuade was shocked to learn that RCMP members deployed to isolated regions receive virtually no access to Mental Health Services. Like her colleagues and supervisors, she knew that this posting would likely entail frequent exposure to violence, but she did not realize that it would also require her to suffer alone, in the absence of appropriate and timely supports, when her occupational duties triggered her PTSD symptoms.
24. Approximately one year into her posting, Cst. McQuade experienced a string of traumatic events in fulfillment of her RCMP duties. Cst. McQuade recognized that she needed mental health support to remain on active duty. She tried to access even baseline Mental Health Services to manage her symptoms and help process the extreme violence she witnessed on a regular basis. In doing so, Cst. McQuade was met with denials and hostility from her supervisors and other senior officers. Rather than requesting adequate Mental Health Services for RCMP members in remote postings like

Nunavut, the supervisors Cst. McQuade sought out for support informed her that others had it worse than she did, to “suck it up” and simply get back to work.

25. In the face of constant opposition, Cst. McQuade did not stop asking for Mental Health Services. As she continued to seek appropriate supports, she was met with personal reprisals from senior officers. In one instance, her immediate supervisor passed along the message that she was now “blackballed” and thus any request she made, however reasonable, would now be rejected by the RCMP as a matter of principle. This response to Cst. McQuade’s efforts to obtain basic Mental Health Services further exacerbated her untreated Operational Stress Injury.
26. When an incident finally brought an RCMP psychologist to Nunavut in late 2018, Cst. McQuade arranged an informal session, on her own time, after she was initially refused an appointment. She recalls this psychologist expressing alarm at the working conditions in the RCMP and offering virtual support. In the months that followed, Cst. McQuade noticed a severe deterioration of her mental health.
27. Despite her best efforts to remain at work, and due to the progression of her Operational Stress Injury symptoms, in 2019 Cst. McQuade lost her Northern Medical approval. To even receive medically necessary intensive psychological treatment, Cst. McQuade began meeting with RCMP supervisors to seek a transfer close to a treatment facility, preferably back to British Columbia where she had an established medical network and family support. In one candid conversation, Cst. McQuade was informed by her RCMP staffing representative in Nunavut that the delay in securing a transfer was because other divisions did not want to take on “problems”– i.e. Mounties who were Off Duty Sick due to mental health injury.
28. Approximately six months in limbo after losing her Northern Medical on account of her mental health, Cst. McQuade relocated with her family to Edmonton as a last resort to secure Mental Health Services at an OSI Clinic, as there was no access to care in the remote posting. She is currently on long-term medical leave for PTSD and does not know when she will be able to return to work.

David Combden

29. The Plaintiff, David Combden, of the Town of Antigonish, Province of Nova Scotia, is a Staff Sargent in the RCMP.
30. S/Sgt. Combden is a 25-year veteran of the RCMP. After three years on the job, S/Sgt. Combden applied for a transfer to the northern “B Division” in Labrador.

31. S/Sgt. Combden served in communities devastated by intergenerational traumas and substance abuse issues, with associated scenes of violent crime on a regular basis. The detachment was short-staffed for the duration of his tenure, leaving officers to cover the shortfall by working for days at a time without a break. Exposure to violence was routine and critical incident debriefings did not exist.
32. S/Sgt. Combden had been serving in Labrador for two years when he was transferred to another posting in Newfoundland. Upon arrival, he began to notice concerning symptoms of mental illness, including the spontaneous onset of anger and emotional lability; he became withdrawn and increasingly estranged from his family.
33. As his career progressed, S/Sgt. Combden's symptoms became increasingly acute, but, as any mention of mental health in the RCMP was met with derision and stigma, he suffered in silence while his health deteriorated. He lived alone, away from his young family in remote, isolated postings (including Watson Lake, YK; Shamattawa, MB; Island Lake, MB; Dease Lake, BC; Oxford House, MB; Norway House, MB), and continued to prioritize his work with the RCMP over his mental health, a sacrifice which went unacknowledged, as mental health remained taboo in the force.
34. In 2013, while working in Northern Manitoba, S/Sgt. Combden read an article written by an RCMP member suffering from PTSD. It was a revelation. Upon reading about someone else experiencing the same symptoms, he realized that he was not "crazy" or "bushed" – the discriminatory nomenclature used within the RCMP – but rather suffered from a recognized mental illness.
35. After realizing that familial supports were crucial to his recovery – and understanding the mental health effects of years spent in isolated postings – S/Sgt. Combden sought a transfer that would allow him to see his children and elderly family in Ontario. The RCMP refused and insisted that he either transfer to Nunavut or remain in Manitoba.
36. S/Sgt. Combden approached this deployment with resolve, but he soon experienced exacerbated PTSD symptoms and was subjected to both extreme violence and a toxic, discriminatory workplace culture. A series of traumatic events in 2016 forced him to seek dedicated Mental Health Services and he was ultimately ruled unfit to work. Although S/Sgt. Combden flew south shortly thereafter with only the belongings he could carry, the RCMP continued to list him as Nunavut "V-Division property." He could not return to the Arctic to work and he could not secure a transfer that would allow him to return to work elsewhere while managing his Operational Stress Injury.

37. The RCMP provided S/Sgt. Combden no direction or support as to where he should reside. He spent the next three years living at his remote cabin in northern Quebec. The RCMP refused to transfer S/Sgt. Combden from the V-Division, contrary to medical advice from his psychiatrist. Realizing that living in isolation was adversely affecting his compromised mental health, S/Sgt. Combden moved to Halifax where he had family support. S/Sgt. Combden alone bore the costs of this move.
38. When S/Sgt. Combden finally secured mental health treatment in 2017 – after decades of living with untreated PTSD symptoms – his psychiatrist advised that continued service in remote communities would cause significant harm and exacerbate his illness. These concerns were communicated to the RCMP, yet no efforts were made to transfer him to an urban centre. During this time off work, S/Sgt. Combden was in a mental health crisis that was exacerbated by the intentional and discriminatory actions of RCMP management.
39. S/Sgt. Combden was undeterred by the RCMP’s callous behaviour and, after months of intensive therapy and work on his mental health, he was cleared to return to work in late 2018. S/Sgt. Combden contacted the RCMP’s Graduated Return to Work program stating his desire to return to the force, but his request was ignored. He then reached out to Human Resources personnel, again expressing a desire to return to work. This time, he was informed his security clearance had lapsed and it would take “months” to regain it.
40. It was not until July 2019 that a gradual return to work plan was offered, and even upon successful completion of this program, S/Sgt. Combden waited several months before he was offered anything resembling full-time work with the RCMP. In July 2020, he was transferred to Antigonish.
41. After serving the RCMP in nine isolated postings, S/Sgt. Combden continues to live with symptoms of his Operational Stress Injury, exacerbated by years of suffering alone and in silence.

Graham Walsh

42. The Plaintiff, Graham Walsh, of Eastern Passage, in the Province of Nova Scotia, is a Constable in the RCMP.
43. Cst. Walsh began his career with the RCMP in 2009, when he was posted to Morden, Manitoba upon graduation from the Cadet Training Program. In 2011, he was posted to Oxford House, a remote community in northern Manitoba accessible only by air travel. Cst. Walsh lived in a

compound and chose not to have his wife or young child accompany him to this posting, as they could not safely reside in the area.

44. During his two years in Oxford House, Cst. Walsh was frequently exposed to scenes of extreme violence and was routinely placed in situations of physical danger. During this time, Cst. Walsh began experiencing symptoms of an Operational Stress Injury, including avoidance of social situations and a preference for constant work, to avoid periods of reflection or processing.
45. Cst. Walsh was transferred to Steinbach, Manitoba in late 2013, where he was joined by his wife and child. He quickly recognized that something was wrong with his mental health; he avoided his family and began to isolate himself from interactions with loved ones. As the RCMP did not perform any psychological evaluations or otherwise recommend Mental Health Services when Cst. Walsh left Oxford House, no one diagnosed the untreated PTSD symptoms emerging with increased intensity. Cst. Walsh threw himself into higher risk areas of policing which included but were not limited to drugs and gangs.
46. The RCMP directly benefited from Cst. Walsh's untreated PTSD and encouraged him to continue overworking himself without reprieve. Constant exposure to danger and violence was viewed as a positive occupational asset. When Cst. Walsh was posted in Iqaluit, Nunavut in 2016, his psychological assessment was essentially waived when the RCMP psychologist performing the testing learned that he had previously served in Oxford House. In comparison, Cst. Walsh was informed that Iqaluit would be a "breeze."
47. Once deployed to Iqaluit, Cst. Walsh noticed the exacerbation of familiar symptoms. He continued to witness scenes of violence on a regular basis, but no Mental Health Services were offered. Eventually, Cst. Walsh recognized the need for professional help and arranged to see an RCMP psychologist who was scheduled to visit Iqaluit on unrelated business. Cst. Walsh underwent a psychological evaluation and was informed that it was unsafe for him to continue working – particularly in Nunavut. Cst. Walsh booked a follow-up phone appointment, but it was unilaterally cancelled, and no further attempts were made to ensure Cst. Walsh's occupational safety.
48. After being involved in an active shooting incident in 2018, Cst. Walsh participated in a debriefing. He learned that the previous RCMP psychologist responsible for his care had suddenly quit, and that the RCMP did not maintain effective policies to ensure continuity of Mental Health Services. Cst. Walsh was ultimately forced to hire a private psychologist, and given the remoteness of his posting, sessions could only be conducted via telephone.

49. In the Spring of 2019, Cst. Walsh traveled to an OSI Clinic in Ottawa, where he was promptly diagnosed with PTSD. As there were no effective procedures in place to expedite transfers in response to Operational Stress Injuries, Cst. Walsh flew back to Iqaluit shortly thereafter to continue working while he awaited a new posting and further treatment. During this time, Cst. Walsh overheard senior officers, supervisors and peers openly mocking Mounties with Operational Stress Injuries, indicating that they were insufficiently tough to do their jobs. Upper management referred to such Mounties as “playing games” to secure favourable transfers. This discriminatory attitude quickly influenced Cst. Walsh’s attitude at treatment sessions, as he became increasingly reticent to speak about his symptoms.
50. Cst. Walsh left Iqaluit in May 2019 for one month of treatment at the OSI Clinic, with an anticipated transfer to the Halifax District essentially reserved for his return. However, after a month of treatment, it was determined that Cst. Walsh remained unfit to return to work, given the severe PTSD symptoms that had developed over the course of his service. After following medical advice and remaining at the OSI Clinic for approximately three more weeks, Cst. Walsh was informed that he had been labeled “sick - unfit for duty” and, as such, his transfer would not be approved. Cst. Walsh was informed that the Halifax Division would not accept a transfer from someone labeled “sick,” and he was forced to return to Iqaluit to await a transfer to receive treatment at an OSI Clinic in Nova Scotia.
51. On July 18, 2019, Cst. Walsh moved to Nova Scotia to receive treatment at an OSI Clinic. He was told by a superior upon leaving that he “better be better” by September. Despite his instructions to await contact from the RCMP to begin treatment at the OSI Clinic, Cst. Walsh’s paperwork was not processed due to shortcomings of RCMP Health Services, leaving him without treatment and his wife, three children and himself without a home when authorizations for benefits were delayed.
52. Almost two months later, Cst. Walsh began treatment at the OSI Clinic, where he was advised that a transfer to Nova Scotia should be effected immediately to assist and expedite treatment, as his transient living accommodations were negatively affecting his treatment and recovery. An official request was submitted and refused by the RCMP. Cst. Walsh was ultimately forced into occupational leave for his disability and continues to seek treatment for the Operational Stress Injury he sustained in the course of his service with the RCMP. Cst. Walsh, his wife and three young children remain in transient housing without their possessions and personal belongings.

53. The Plaintiffs, Garrett Moore, Kelly McQuade, David Combden, and Graham Walsh, seek to certify this action as a class proceeding pursuant to Part 5.1 of the *Federal Court Rules*, SOR/98-106, on their own behalf and on behalf of the Class consisting of all persons who are or have been enrolled as Officers and/or Members in the Royal Canadian Mounted Police and who have been diagnosed with, or suffered from, an Operational Stress Injury.
54. As the proposed representative plaintiffs, the Plaintiffs have no adverse interest to those of the proposed Class. The Plaintiffs state that they would fairly and adequately represent the interests of this identifiable Class, that their claims raise common issues, and that a class proceeding is the preferable procedure for the resolution of such common claims.

(ii.) *The Defendant*

55. The Defendant, the Attorney General of Canada, representing Her Majesty the Queen in Right of Canada, is named in these proceedings pursuant to sections 17 and 48 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, and is the legal representative of the RCMP, which employs the Plaintiffs and members of the Class.
56. All references to the Crown are deemed to include its contractors, subcontractors, agents, servants, employees, appointees, and departments. Pursuant to section 36 of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, all current and former agents of the RCMP, including, without limitation, the Commissioner, the Chief Administrative Officer, the Chief Financial Officer, the Chief Human Resources Officers, all Commissioned Officers, and the Senior Executive Committee, are deemed to be servants of the Crown throughout the course of their employment.
57. The Crown, through and with its contractors, subcontractors, agents, servants, employees, appointees, and departments, was at all material times hereto responsible for the operation, maintenance, supervision, and administration of occupational health and safety standards and Mental Health Services in the RCMP, and for taking reasonable steps to provide safe working conditions for all Officers and Members. The Crown was further responsible for the operation, governance, management, and supervision of equitable working conditions for RCMP employees, including the duty to ensure that Officers and Members were not subjected to systemic workplace discrimination on the basis of disability, in contravention of their *Charter* rights.

E. The Mental Health Crisis in the Royal Canadian Mounted Police

58. As a federal organization, the Royal Canadian Mounted Police is responsible for establishing and maintaining occupational health and safety standards consistent with the *Canada Labour Code*, R.S.C., 1985, c. L-2. It is expected that all such agencies will provide safe working conditions and take reasonable steps to reduce the incidence of occupational injuries, including psychological injury. The RCMP is also responsible for administering Canada's national police force and upholding federal laws across the country.
59. Officers and Members of the RCMP face unique occupational risks and challenges by virtue of their status as first responders in every region of Canada and in 26 locations around the world, with postings to rural, remote and urban policing environments. They are transferred in and out of small communities and high-risk postings, with career progression often dependent on stationing locations. They confront crises on a regularized basis throughout their careers involving multiple casualties with catastrophic injuries. Mounties experience life threatening circumstances or critical incidents on the job and are often expected to return to work, without adequate health or debriefing assessments, and perform their duties shortly thereafter.
60. It is expected that Mounties will respond to dangerous and traumatic scenes in the course of their employment, and the RCMP is aware that its members face an increased risk of developing Operational Stress Injuries. Census data indicates that thousands of calls are received each year in relation to violent crime and tragic accidents, a great number of which require RCMP employees to respond in furtherance of their legislated duties to the public.

(i.) *Mounties' Mental Health and the Generic Federal Employee Assistance Program*

61. For most of its history, the distinct mental health challenges of first responders were ignored by the RCMP. Officers and Members who experienced workplace trauma or symptoms of mental illness were told to "man up," "suck it up" and do their jobs. They were provided with the Employee Assistance Program used across the federal service, which provided the same resources and supports to Mounties as those available to all federal employees, such as those with Canada Post or the Bank of Canada. The organizational silence and lack of intervention regarding mental health and inaccessibility of appropriate Mental Health Services resulted in the denial of symptoms, increased self-medication and substance abuse and the absence of prevention, detection, early intervention, or adequate treatment.

62. By the early 2000s, the intuitive connection between Mounties' employment conditions and mental health issues attracted empirical study, which supported the causal link between exposure to trauma and psychological harm. This increasing body of evidence did not induce cultural change within the RCMP, where discussions about mental health were discouraged, belittled, and the subject of psychological trauma was seen as "taboo." This culture of silence and stigmatization caused significant delays in seeking treatment for Operational Stress Injuries, substance abuse disorders, break down of families, and in some cases, premature death by suicide. Mounties suffering with mental illnesses faced discriminatory barriers to treatment, as compared with colleagues who suffered visible, physical injuries or physical disabilities. It was expected that Mounties would disregard and repress any Operational Stress Injury symptoms, as the underlying culture was fundamentally ableist and hostile to discussions of mental health.
63. Although the RCMP chose not to preserve records concerning employees' mental health issues, the mental health crisis within the RCMP was revealed in 2009 with the publication of the Military Ombudsman's 2008-2009 report, which found that more than 1,700 Mounties were placed on occupational leave as a result of mental illnesses sustained in the course of their employment. It was further reported that an "inextricable link" existed between Operational Stress Injuries and the working conditions within the RCMP. Although suggestions for reform were advanced, including implementation of mandatory reporting for possible psychological workplace injuries, RCMP leadership chose not to effect any substantive changes.
64. In the months following the Military Ombudsman's 2009 report, the RCMP announced a pilot project to treat Operational Stress Injuries, based on a program used in the Canadian Armed Forces, would be implemented to help employees manage symptoms of mental illness. Shortly thereafter, while the pilot project lingered in operational limbo, an internal magazine sent to all RCMP employees indicated that police officers were six or more times more likely to develop PTSD and three times more likely to die by suicide than the general public they serve. This insight did nothing to hasten the implementation of the OSI pilot project, which was officially cancelled before it began in 2012. By refusing to acknowledge the distinct mental health needs of its members, the RCMP furthered its longstanding culture of silence, discrimination and stigma regarding the prevalence of Operational Stress Injuries amongst Mounties.
65. The cancellation of the OSI pilot project was accompanied by the RCMP's announcement to the effect that existing policies and programs were sufficient to meet its employees' mental health needs. While RCMP employees had access to peer-based mental health programs, which

encouraged the use of informal debriefings following a critical incident, the generic Employee Assistance Program remained the primary source of Mental Health Services for Mounties – and the only official source of professional psychological help. Mounties who availed themselves of such services risked exposure and subsequent discrimination, as supervisors and Officers openly mocked Mounties who were known to seek help for mental health issues.

66. By 2013, reports of RCMP employees dying by suicide as a result of Operational Stress Injuries became increasingly common. In response, the RCMP released a public statement, referencing the fact that most Mounties underwent mandatory psychological assessments every three years.
67. Yet, there was and remains a glaring disconnect between what was offered to Mounties and the services, treatment and programs ultimately delivered or accessible. Even informal, peer-to-peer debriefings were unavailable or not carried out after many critical incidents – including witnessed suicides and violent assaults. In the face of mounting criticism, a mental health crisis and increasing suicides by current and former Officers and Members, the RCMP began to formulate a formal response to the mental health crisis within its ranks in 2013.

(ii.) The RCMP's Five-Year Mental Health Strategy (2014-2019)

68. When the RCMP announced its five-year Mental Health Strategy on May 1, 2014, their public statement that “more can and should be done to address the issue of mental health in the workplace” was amply supported by both empirical evidence and the experiences of numerous Mounties. By the time this program was introduced, suicides among RCMP employees had reached record highs. An audit published in the lead-up to the Mental Health Strategy further revealed that 38% of the RCMP's workforce on long-term leave was unable to work due to poor mental health.
69. With the announcement of the Mental Health Strategy, the RCMP signaled an intention to provide adequate and appropriate programs and procedures to assist employees with the prevention and early detection of mental health issues. However, despite outlining strategic goals in relation to the elimination of stigma and the provision of improved programming, the RCMP Mental Health Strategy was predominantly a restatement of existing services. Mounties were encouraged to seek help through the generic Employee Assistance Program, and the Operational Stress Injury pilot program, which was previously canceled before it began, was revived and offered to employees, subject to their receiving a physician's referral. The Mental Health Strategy also re-iterated that periodic health assessments would be held tri-annually for most employees. Funding for additional counseling services was limited to a maximum of 12 hours per year. For many, even this meagre

programming was functionally inaccessible, as those who were known to access Mental Health Services faced discrimination, mockery, and diminished career prospects in an RCMP culture that valorized suffering in silence.

70. Although the RCMP took responsibility for the implementation of the five-year Mental Health Strategy, the resources offered to Mounties were largely based on recycled programming from the Canadian Armed Forces. Following its announcement, one prominent psychologist raised concern that the Mental Health Strategy did not address distinct challenges of serving in the RCMP, including the fact that, for Mounties, there is no return home from the areas in which they serve; rather, the line “blurs” between areas of safety and danger. Despite empirical evidence that Mounties required particularized Mental Health Services due to their unique occupational vulnerabilities to psychological harm, the RCMP chose not to implement any such programming, preferring instead to rely upon generic services and programs.
71. The effects of Operational Stress Injuries on Mounties continued to receive significant national attention in the years following the inadequate implementation of the RCMP Mental Health Strategy with its generic, functionally inaccessible programming. In 2016, for instance, the Standing Committee on Public Safety and National Security published their Study on Operational Stress Injuries and Post-Traumatic Stress Disorder in Public Safety Officers and First Responders, finding that, despite the implementation of the RCMP Mental Health Strategy, PTSD among Canadian first responders remained at the forefront of national public safety concerns. Rather than expending effort to improve services to promote Mounties’ health and wellness, the RCMP continued to operate ineffective Mental Health Services and cultivate a culture of discrimination toward those who used them.
72. The Standing Committee also identified several deficiencies in relation to existing Mental Health Services within the RCMP, including the lack of situational specificity in the supports available to Mounties, the absence of a clear definition of Operational Stress Injuries, and the lack of Crown effort with respect to data collection and retention on Mounties’ mental health. The Study concluded with a formal request for a comprehensive response from the Crown. For their part, the RCMP cited that fact that the Committee’s recommendations were not directed specifically at them, and so it chose not to respond, to the ongoing detriment of its employees.

(iii.) The RCMP Mental Health Strategy Audit and the Preservation of the Status Quo

73. In the Spring of 2017, the Office of the Auditor General published findings from an intensive audit of the RCMP Mental Health Strategy, which assessed information from *inter alia* the RCMP's documentary disclosure, interviews with senior officials within the RCMP, and surveys on mental health completed by more than 7,000 RCMP employees. After detailing the ways in which the RCMP has implemented programs and procedures to support mental health amongst its ranks, the Auditor General outlined a series of bleak empirical facts concerning the prevalence of Operational Stress Injuries within the RCMP, including Mounties' disproportionate vulnerability to PTSD and the common experience of inaccessibility and delayed access to services, supports and treatment for those seeking appropriate Mental Health Services.
74. Upon completion of the independent review, the Auditor General concluded that the RCMP did not meet the mental health needs of its employees. It was determined that Mental Health Services were not prioritized by RCMP leadership, and their stated goals of early detection and intervention were not supported by effective actions. Additional health and safety failures were noted in relation to mental health sick leave policies and the inaccessibility of basic mental health services.
75. The Auditor General found that only 57% of surveyed Mounties reported timely access to Mental Health Services, and 20% of workers who sought Mental Health Services and required sick leave never returned to service in the RCMP. Those who returned to work were frequently met with discrimination, invasions of their medical privacy, and derogatory remarks upon rejoining the RCMP. The prevailing culture was, and continues to be, such that sick leave for mental health correlates negatively with Mounties' career advancement in a workplace that demands employees to "man up" and repress symptoms of mental illness.
76. The RCMP refused to confirm the accuracy of the reported statistics in the Auditor General's report and chose not to modify its impugned Mental Health Services. The same year brought significant media attention for the RCMP's removal of an employee who developed PTSD in furtherance of his occupational duties, and public statements made in early 2018 brought increased public attention to the psychological trauma experienced by Mounties posted to remote and high-risk areas. It was revealed that, notwithstanding empirical evidence of a mental health crisis in the RCMP, and knowledge by the RCMP that remote postings pose an increased risk of Operational Stress Injuries, Officers and Members who were deployed to isolated, high-risk regions received no psychological evaluation, support, or counselling, or adequate and timely access to treatment.

77. Further research conducted in 2018 revealed the persistence of the identified deficiencies in the RCMP's provision of Mental Health Services. Indeed, after surveying hundreds of Mounties, it was determined that over half of RCMP employees suffer from a mental health disorder, with 25% reporting signs and symptoms of PTSD. The RCMP was made aware of this research and ultimately posted the report to its website but did not take substantive action to improve employment conditions for its Officers and Members struggling with Operational Stress Injuries.
78. With the expiration of the five-year RCMP Mental Health Strategy in 2019, there was an opportunity for progress when the Minister of Public Safety and Emergency Preparedness released the RCMP 2019-20 Departmental Plan, which included an Occupational Safety Strategy for 2019 to 2024. While this new Strategy suggested another audit of mental health supports in the RCMP, no steps were taken to alter the demonstrably inadequate Mental Health Services provided to Officers and Members. To date, there have been no substantive alterations to the RCMP's Mental Health Services, and the generic, circumscribed, and largely inaccessible Employee Assistance Program remains the primary resource for Mounties struggling with Operational Stress Injuries.
79. Since the introduction of the RCMP's Occupational Safety Strategy in 2019, and ensuing period of inaction, the harms caused by inadequate Mental Health Services have been further demonstrated, including a recent study showing that, even when compared with other police officers, RCMP Officers and Members experience a disproportionate incidence of suicidal ideation, PTSD, depression, anxiety, and panic disorders. Since 2014 – the year in which the Mental Health Strategy was announced – and late 2019, 25 RCMP employees have tragically died by suicide after suffering from Operational Stress Injuries.

F. CAUSES OF ACTION

(i.) *The Crown's Legal Duties*

80. At all material times hereto, the Crown owed legal duties to the Plaintiffs and Class Members, including, *inter alia*, the duties to:
 - a. provide reasonably safe and healthy employment conditions for all Officers and Members in the RCMP;
 - b. take reasonable steps to comply with occupational health and safety standards while providing timely, accessible, and effective Mental Health Services to RCMP employees;

- c. implement adequate policies, practices, and procedures to prevent, diagnose, and treat Mounties' Operational Stress Injuries, sustained in the course of employment with the RCMP;
- d. carry out adequate screening, testing, and research into the incidence of, and diagnosis and treatment for, Operational Stress Injuries;
- e. provide adequate, timely, and accessible Mental Health Services to RCMP employees in all postings, in compliance with occupational health and safety standards;
- f. reasonably accommodate employees who have medical restrictions;
- g. take reasonably proactive steps to prepare RCMP employees for the conditions of employment as first responders, particularly in isolated, remote and high-risk community postings;
- h. promote, encourage, and/or require the regular use of adequate and appropriate Mental Health Services for RCMP employees;
- i. take all reasonable and necessary steps to ensure that the RCMP operates in compliance with sections 124 and 125 of the *Canada Labour Code*;
- j. implement programs, policies, and procedures for the reasonable accommodation of RCMP employees affected by Operational Stress Injuries;
- k. take reasonable steps to remain informed of research and empirical evidence pertaining to the health and safety needs of RCMP employees, including research and data regarding first responders' mental health needs;
- l. provide fair and equitable policies for RCMP employees on occupational leave due to Operational Stress Injuries, including policies to eliminate stigma and discrimination in relation to transfer requests and return-to-work protocols;
- m. carry out reasonably prompt, diligent, and careful reviews of the Mental Health Services offered to RCMP employees; and
- n. implement policies and procedures to ensure that RCMP employees are not subjected to discrimination on the basis of disability, in contravention of their *Charter* rights.

81. The Crown breached the duties enumerated above, as set out in the following paragraphs.

(ii.) *Systemic Negligence*

82. At material times, the Crown owed a legal duty to the Plaintiffs and Class Members to take reasonable care in the operation, implementation, management, and oversight of Mental Health Services for the early detection and treatment of Operational Stress Injuries in the RCMP. The Crown breached the requisite standard of care by acting negligently, and/or failing to act at all, in the face of mounting evidence of a mental health crisis within Canada's national police force, with debilitating and often fatal consequences for Officers and Members, who are expected to respond in dangerous and traumatic situations as a condition of employment. Such negligence includes, but is not limited to, the following:

- a. the Crown chose not to exercise reasonable care in implementing accessible, timely, and effective Mental Health Services to prevent and/or treat Operational Stress Injuries;
- b. the Crown did not take all reasonable and necessary steps to mitigate and/or control risks to the health and safety of RCMP employees by the nature of their employment;
- c. the Crown chose not to require, recommend, or facilitate adequate and occupationally appropriate mental health screening for Mounties at risk for Operational Stress Injuries;
- d. the Crown did not modify and improve existing Mental Health Services, and access thereto, despite the proliferation of empirical evidence demonstrating the inefficacy and inaccessibility of Mental Health Services;
- e. the Crown chose not to take a reasonable interest in the psychological impacts of working as a first responder, despite its responsibility for the occupational health and safety of RCMP employees;
- f. the Crown provided inadequate, outdated, delayed and inaccessible Mental Health Services to RCMP employees;
- g. the Crown did not operate, manage, administer, and/or supervise employment conditions within the RCMP in a manner consistent with sections 124 and 125 of the *Canada Labour Code*;
- h. the Crown chose to operate Canada's national police force in a dangerous, callous, and reckless manner, such that Mounties were placed at unreasonable and foreseeable risk for Operational Stress Injuries and the exacerbation thereof;

- i. the Crown did not provide adequate and timely access to Mental Health Services to RCMP employees frequently exposed to traumatic situations in the workplace;
 - j. the Crown ignored, disregarded, and/or chose not to consider empirical evidence regarding the distinct mental health needs of RCMP employees;
 - k. the Crown chose not to accommodate employees medical needs and restrictions arising as a result of their mental health disabilities;
 - l. the Crown chose not to implement adequate supports, programs, and/or policies for occupational leave in respect of Operational Stress Injuries;
 - m. the Crown did not provide equitable and non-discriminatory working conditions for RCMP employees suffering from Operational Stress Injuries; and
 - n. such further and other particulars as may be provided prior to the trial of this action.
83. There were numerous alternatives to the Mental Health Services offered by the Crown for RCMP employees which were safer and would have promoted early and appropriate detection, intervention and treatment of Operational Stress Injuries. The Crown had access to both empirical evidence of a mental health crisis within the RCMP and Mounties' accounts of exposure to trauma and associated Operational Stress Injuries. Still, the Crown chose not to modify or better particularize the programs and policies that were implemented for the protection of Mounties' mental health, resulting in the further proliferation and exacerbation of Operational Stress Injuries and the consequences thereof.
84. The negligence of the Crown in the operation, control, and management of the RCMP's Mental Health Services created a substantial likelihood of foreseeable harm for Class Members. The Plaintiffs state that, as a result of the Crown's negligence, the Plaintiffs and Class have suffered pecuniary and non-pecuniary damages, injury and loss. The harms and damages of the Plaintiffs and Class Members were caused by the negligent acts and omissions of the Crown, for which the Crown is fully liable.

(iii.) Breaches of Section 15(1) of the Canadian Charter of Rights and Freedoms

85. The acts and omissions of the Crown violated the basic and fundamental human rights of the Plaintiffs and Class Members, thereby violating their rights and freedoms under section 15(1) of the *Charter*.

86. The Crown condones, authorizes, and perpetuates a discriminatory workplace culture where RCMP employees are subjected to differential treatment based on mental disability, including their reporting of Operational Stress Injuries and efforts to seek treatment for mental health concerns. Mounties who suffer mental disabilities, psychological trauma and associated mental health issues face stigma from RCMP leadership, including senior executives and those responsible for decision-making in respect of promotions, transfers, and performance reviews. Mounties who suffer from Operational Stress Injuries are routinely denied timely treatment, opportunities for career advancement and requests for transfers to less remote or isolated postings. The Crown routinely chooses not to accommodate the needs of Mounties with Operational Stress Injuries, thereby discriminating against the Plaintiffs and Class Members on the ground of mental disability.
87. Officers and Members who require mental health leave from the RCMP face permanent stigma and the erosion of upward occupational momentum not experienced by Mounties who do not suffer from mental disabilities. By labeling employees suffering from Operational Stress Injuries as unfit for service, and denying equal opportunities for placement, positions and transfers when Mounties are deemed medically fit to return to work, the RCMP perpetuates discriminatory disadvantage with lasting effects on Mounties' abilities to return to remunerative work and receive employment benefits, such as, but not limited to, housing for themselves and their families while deployed to remote communities. Mounties who suffer or suffered from Operational Stress Injuries experience discrimination that perpetuates the view that they are less capable or worthy of recognition or value, and equally deserving of concern, respect and consideration.
88. Through its operation, maintenance, implementation, and oversight of RCMP employment conditions, including policies in respect of mental health leave, transfer requests, and return-to-work protocols, the Crown has perpetuated disadvantage and stereotyping and has denied the Plaintiffs and Class Members equal treatment and protection of the law based on the enumerated ground of mental disability. The Crown's inadequate Mental Health Services fail to respond to the actual needs of the Plaintiffs and Class Members and have the effect of reinforcing and perpetuating disadvantage.
89. The Crown's violation of this fundamental right cannot be saved by section 1 of the *Charter*, as it does not constitute a reasonable limit prescribed by law that is demonstrably justified in a free and democratic society.

G. CHARTER REMEDIES

90. As a result of the Crown's violations of the Plaintiffs' and Class Members' *Charter* rights to equality before and under the law, the Plaintiffs and Class Members are entitled to monetary damages, pursuant to section 24(1) of the *Charter* in order to:
- a. compensate them for their suffering and loss of dignity;
 - b. vindicate their fundamental human rights; and
 - c. deter the perpetuation of systemic discrimination in Canada's national police force.
91. There are no countervailing considerations rendering monetary damages in this case inappropriate or unjust.
92. The Plaintiffs further state that systemic remedies, including declarations and mandatory orders, against the Crown, pursuant to section 24(1) of the *Charter*, would be just and appropriate to ameliorate the pre-existing disadvantage that is perpetuated by the Crown's breaches and violations of section 15, which are systemic in nature and require mandatory orders to correct and redress.

H. OTHER DAMAGES

93. As a result of the Crown's systemic and operational negligence, and violation of the Plaintiffs and Class Members' rights under section 15(1) of the *Charter* the Plaintiffs and Class Members have suffered and continue to suffer damages. The Plaintiffs and Class Members have not received compensation for the damages thereby suffered, including the operational negligence of the Crown in failing to address Mounties' Operational Stress Injuries, the detrimental occupational and advancement opportunities arising therefrom, or the violation of their section 15(1) equality rights, which are not the subject of pensionable compensation.
94. The Plaintiffs state that the Crown knew, or ought to have known, that their breaches of common law and Constitutional duties would cause the Class Members significant damages, which include but are not limited to the following:
- a. emotional, physical, and psychological harm and suffering;
 - b. pain and suffering, loss of amenities of life, and mental distress;
 - c. isolation and alienation from colleagues, friends, and family members;

- d. an impaired ability to sustain interpersonal relationships;
 - e. addiction and substance abuse disorders;
 - f. premature death;
 - g. the need for ongoing psychological, psychiatric and medical treatment and care; and
 - h. loss of general enjoyment of life.
95. The Plaintiffs plead the doctrine of *respondeat superior* and state that the Crown is vicariously liable for the misconduct of their employees, representatives, servants, and agents.

I. PUNITIVE AND EXEMPLARY DAMAGES

96. The Plaintiffs state that the conduct of the Crown, its employees, representatives, servants, departments, and agents, including current and former agents of the RCMP, was willful, arrogant, callous, and high-handed, constituting a gross violation of the rights of the Plaintiffs and Class Members. The Plaintiffs respectfully submit that this is an appropriate case for punitive and exemplary damages to demonstrate that such willfully negligent, discriminatory, and tortious conduct will not be ignored, and to act as a deterrent to prevent such conduct in the future.
97. The Crown operates, administers, governs, and supervises Canada's national police force and thereby employs thousands of Mounties who are expected to respond in the public interest during times of crisis, violence, and tragedy. RCMP employees fulfill a necessary service for the Crown, and they depend on the Crown to provide a reasonably safe working environment, particularly given the dangerous environmental factors inherent to their occupation. Despite direct knowledge that the Mental Health Services for RCMP employees created unreasonable risk for the exacerbation of Operational Stress Injuries and the symptoms thereof, the Crown chose to avoid the expenditure of effort and/or resources and instead subjected Mounties to ongoing and preventable harms.
98. The Crown knew, or ought to have known, that RCMP policies regarding occupational leave and transfer requests had the effect of stigmatizing and silencing those suffering from Operational Stress Injuries. The Crown authorized, encouraged, and/or facilitated a discriminatory regime, whereby Officers and Members who developed Operational Stress Injuries in service of the public and the Crown were subjected to negative, callous, and inequitable treatment by those in leadership.

99. In effect, the Crown created a culture of repression, whereby those struggling with mental health issues were subjected to negative treatment by those with unilateral influence over the trajectory of their careers.
100. By implementing inadequate occupational health and safety standards for RCMP employees, the Crown caused unnecessary and protracted suffering while discouraging Mounties from seeking the help they needed. From their use of perfunctory mental health assessments for high-risk postings, to their delays in providing access to treatment for Mounties in need, in particular in high-risk remote postings, to their discriminatory labeling of affected employees as “unfit for service,” the Crown’s conduct in respect of Mental Health Services in the RCMP was outrageous, intentional, and caused deeply personal and irremediable harm. Moreover, by ignoring ample evidence of psychological harm, the Crown’s acts and omissions were committed knowingly and deliberately and resulted in the profit inherent in the conservation of effort and necessary resources to provide a healthy, safe working environment for RCMP employees.
101. The Plaintiffs repeat the foregoing paragraphs and state that the proportionate blameworthiness of the Crown’s conduct requires the imposition of punitive and exemplary damages to deter, sanction, and punish the harsh, vindictive, and contemptuous acts and omission of the Crown in respect of their maltreatment of Officers and Members struggling with Operational Stress Injuries.

J. QUEBEC LAW

102. Where the actions of the Crown and its contractors, subcontractors, agents, servants, employees, appointees, and departments took place in Quebec, they constitute:
 - a. fault giving rise to the extra-contractual liability of the Crown and its contractors, subcontractors, agents, servants, employees, appointees, and departments pursuant to the *Civil Code of Quebec*, S.Q. 1991, c. 64, Art. 1457, and the *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12 (the “*Quebec Charter*”), s. 1, 4, 10, 10.1, and 16;
 - b. fault giving rise to the extra-contractual liability of the Defendant and its contractors, subcontractors, agents, servants, employees, appointees, and departments pursuant to the *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50, s. 3 and the *Interpretation Act*, R.S.C. 1985, c. I-16, s. 8.1; and
 - c. unlawful and intentional interference with the rights of the Plaintiffs and the Class Members under the *Quebec Charter*, ss. 1, 4, 10, 10.1, and 15, giving rise to the liability

of the Defendant to pay punitive damages to the Plaintiffs and the Class Members, pursuant to the *Quebec Charter*, s. 49 and the *Civil Code of Quebec*, Art. 1621.

K. LEGISLATION AND RULES

103. The Plaintiffs plead and rely upon the following:

- a. *Canadian Charter of Rights and Freedoms*, s 7, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11;
- b. *Canada Labour Code*, R.S.C., 1985, c. L-2;
- c. *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12;
- d. *Civil Code of Quebec*, S.Q. 1991, c. 64;
- e. *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50;
- f. *Federal Courts Act*, R.S.C. 1985, c. F-7;
- g. *Interpretation Act*, R.S.C. 1985, c. I-16; and
- h. *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10.

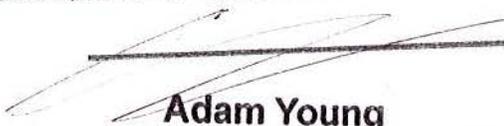
104. The Plaintiffs propose that this action be tried at Halifax, Nova Scotia.

DATED at Halifax, Nova Scotia this 16th day of September 2020.

I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the _____

day of **SEP 16 2020** A.D. 20 _____

Dated this **SEP 16 2020** day of _____ 20 _____


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Registry Officer
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