

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D É P O S É
	File No: T-1673-17 Apr 17, 2019	
Justine Drouin		
Ottawa, ONT		

FEDERAL COURT
PROPOSED CLASS PROCEEDING

BETWEEN:

CHERYL TILLER, MARY-ELLEN COPLAND AND DAYNA ROACH

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

Brought pursuant to the *Federal Courts Rules*, SOR/98-106

AMENDED STATEMENT OF CLAIM

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

Copies of the Federal Courts 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)

Issued by: _____
(Registry Officer)

Address of local office:
Pacific Centre
PO Box 10065
701 West Georgia Street
Vancouver, BC V7Y 1B67

TO: Her Majesty the Queen
Department of Justice Canada
900 – 840 Howe Street
Vancouver, BC V6Z 2S9

Relief Sought

1. The plaintiffs Cheryl Tiller, Mary-Ellen Copland and Dayna Roach claim on their own behalf and on behalf of a proposed Class of similarly situated persons:
 - a. an order certifying this action as a class proceeding and appointing Cheryl Tiller, Mary-Ellen Copland and Dayna Roach as representative plaintiffs under the *Federal Courts Rules*, SOR/98-106;
 - b. general damages plus damages equal to the costs of administering the plan of distribution;
 - c. special damages in an amount to be determined, including but not limited to past and future loss of income, medical expenses and out-of-pocket expenses;
 - d. exemplary and punitive damages;
 - e. damages pursuant to the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11, s 24(1);
 - f. punitive damages pursuant to the *Charter of Human Rights and Freedoms*, CQLR c C-12 and the *Civil Code of Quebec*, CQLR c C-1991;
 - g. recovery of health care costs incurred by the Ministry of Health Services and other provincial and territorial health insurers on behalf of the plaintiffs and Class Members pursuant to the *Health Care Costs Recovery Act*, SBC 2008, c 27 and comparable legislation in the other provinces and territories;
 - h. damages pursuant to the *Family Law Act*, RSO 1990 c F-3 (the “*FLA*”) and comparable legislation in other provinces and territories;
 - i. pre-judgment and post-judgment interest;
 - j. costs; and
 - k. such further and other relief as this Honourable Court may deem just.

Nature of this Action

2. This action concerns gender and sexual orientation based harassment and discrimination within the Royal Canadian Mounted Police (“RCMP”).

3. The Class is defined as:

Primary Class Members: All current and former living municipal employees, regional district employees, employees of non-profit organizations, volunteers, Commissionaires, Supernumerary Special Constables, consultants, contractors, public service employees, students, members of integrated policing units and persons from outside agencies and police forces, and similarly situated individuals, who are female or publicly identify as female and who worked with the RCMP during the Class Period, excluding individuals who are primary class members in *Merlo and Davidson v. Her Majesty the Queen*, Federal Court Action Number T-1685-16 (“Merlo Action”) and class members in *Ross, Roy, and Satalic v. Her Majesty the Queen*, Federal Court Action Number T-370-17 or *Association des membres de la police montée du Québec inc., Gaétan Delisle, Dupuis, Paul, Lachance, Marc v. HMTQ*, Quebec Superior Court Number 500-06-000820-163. The Class Period is September 16, 1974 to the date the Settlement receives Court approval.

Secondary Class Members: All persons who have a derivative claim, in accordance with applicable family law legislation, arising from a family relationship with a Primary Class Member.

(collectively “Class Members” or the “Class”).

~~to be defined in the plaintiffs’ application for certification, will include but is not limited to female municipal employees, regional district employees and employees and volunteers of non-profit organizations who worked with the RCMP and within the physical premises of the RCMP (collectively the “Class Members” or the “Class”).~~

4. The plaintiffs allege that they and other Class Members were subjected to gender and sexual orientation based harassment and discrimination in the workplace by RCMP regular members, civilian members, public service employees (“PSEs”) and management (collectively referred to as “RCMP Members and Management”). The impugned conduct also included sexual assault, including physical assault in the course of conduct constituting harassment.

5. The plaintiffs allege that RCMP management failed to fulfill its statutory and common law duties to the plaintiffs and Class Members to ensure that they could work in an environment free

of gender and sexual orientation based harassment and discrimination.

6. As a result of the harassment and discrimination, the plaintiffs and Class Members have suffered serious physical and psychological damages, out-of-pocket expenses and loss of income.

~~7. The Class excludes persons who are Primary Class Members in *Merlo and Davidson v. Her Majesty the Queen*, Federal Court Action No. T 1685-16 (the “Merlo Action”).~~

The Parties

8. The plaintiff, Cheryl Tiller, worked as a stenographer and a victims’ services coordinator at the Yorkton Municipal RCMP Detachment. Ms. Tiller continues to reside in Yorkton, Saskatchewan.

9. The plaintiff, Mary-Ellen Copland, worked as a program coordinator of the block watch program and a coordinator of the crime prevention program, initially at the Surrey Municipal RCMP Detachment and later at the Newton RCMP Community Police Station. Ms. Copland currently resides in Sechelt, British Columbia.

10. The plaintiff, Dayna Roach, worked as an office manager at the Lloydminster Municipal RCMP Detachment. Ms. Roach currently resides in Lloydminster, Alberta.

11. The defendant, Her Majesty the Queen (the “Crown”) is liable for the conduct, negligence and malfeasance of the RCMP and individuals who were at all material times Crown employees, agents and servants, pursuant to the *Crown Liability and Proceedings Act*, RSC 1985, c C-50.

The Plaintiffs and the Class

12. While working with the RCMP, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members were located within RCMP premises and integrated into the RCMP work environment. They used RCMP property and resources to perform their jobs and worked with and reported directly to RCMP Members and Management.

13. While working with the RCMP, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members were each subjected to systemic and persistent gender based harassment and discrimination by RCMP Members and Management. All of this behaviour has had the effect of

demeaning Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members and limiting their careers.

14. Ms. Tiller worked at the Yorkton Municipal RCMP Detachment. From approximately January 1, 2005 to March 10, 2007, Ms. Tiller was employed by the municipality of Yorkton and provided stenography services to the RCMP. In her role as a stenographer, Ms. Tiller worked with the RCMP members on duty during her shifts and provided monitoring, dispatching, transcribing and administrative services. In April of 2007, Ms. Tiller began working for Parkland Victims Services at the Yorkton Municipal RCMP Detachment as the coordinator of its victims' services program. She continues to work in this role. Parkland Victims Services is a non-profit agency, funded by the Saskatchewan Ministry of Justice, that works with the RCMP to provide support and services to victims of crime.

15. While working with the RCMP, Ms. Tiller endured, among other things, unwanted sexual touching and comments in the workplace. Ms. Tiller complained to sergeants and others in RCMP management about the gender based harassment that she was experiencing, but these complaints were never addressed and led to retaliatory abuse, often at the hands of RCMP management.

16. As a consequence of the ongoing harassment that she experienced while working with the RCMP, Ms. Tiller suffered from suicidal ideation and was diagnosed with depression, anxiety and stress.

17. Ms. Copland worked at the Surrey Municipal RCMP Detachment as program coordinator of the block watch program. Ms. Copland began this role in approximately 1990. In 2003, Ms. Copland became the coordinator of the crime prevention program, also at the Surrey Municipal RCMP Detachment. In or around 2005, Ms. Copland was transferred to the Newton RCMP Community Police Station where she continued to work in the crime prevention program. Ms. Copland was employed by the municipality of Surrey. As coordinator of the block watch and crime prevention programs, Ms. Copland worked directly with RCMP members. She managed the block watch program, conducted home security checks and gave safety awareness talks to the public. In 2014, Ms. Copland stopped working with the RCMP.

18. While working with the RCMP Ms. Copland experienced, among other things, unwanted sexual touching and comments in the workplace. On several occasions, Ms. Copland complained

to sergeants and others in RCMP management about the harassment that she was experiencing at the hands of RCMP Members and Management. On some occasions, Ms. Copland was told to drop her complaints. On other occasions, Ms. Copland's complaints were investigated, but those investigations did not result in any consequences for the perpetrators.

19. Ms. Copland's complaints often led to retaliatory abuse from RCMP Members and Management, which prevented her from effectively performing her job.

20. As a consequence of the ongoing harassment that she experienced while working with the RCMP, Ms. Copland was diagnosed with depression, anxiety and stress.

21. Ms. Roach began working at the Lloydminster Municipal RCMP Detachment as an office manager in 2009. As the office manager of the Lloydminster Municipal RCMP Detachment, Ms. Roach worked directly with RCMP members. Ms. Roach was employed by the municipality of Lloydminster and seconded to this role.

22. Ms. Roach experienced constant and extreme gender based harassment and discrimination while working with the RCMP. Ms. Roach complained to RCMP management, but she was dismissed and became afraid to speak out. One on occasion, the inspector interviewing Ms. Roach advised her that he was good friends with the perpetrator. The other times Ms. Roach complained, nothing was done.

23. Ms. Roach's complaints often led to retaliatory abuse from RCMP Members and Management. RCMP management failed to stop this retaliatory conduct and often participated in it. At the behest of RCMP management, Ms. Roach's employer threatened termination. On July 17, 2017, Ms. Roach was terminated from her employment and ceased acting as office manager of the Lloydminster Municipal RCMP Detachment.

24. As a consequence of the ongoing harassment and discrimination that she endured while working with the RCMP, Ms. Roach was diagnosed with post-traumatic stress disorder ("PTSD"), depression, anxiety and stress.

25. At all material times in each RCMP Detachment/Station in which they worked, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members were treated differently than their male colleagues, particulars of which include but are not limited to:

- a. sexually explicit comments were frequently made to or about Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members by RCMP Members and Management;
 - b. comments dismissing Ms. Tiller's, Ms. Copland's, Ms. Roach's and other Class Members' ability to carry out the tasks and duties of their jobs were frequently made by RCMP Members and Management;
 - c. Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members were subjected to unwanted physical and sexual touching by RCMP Members and Management;
 - d. Class Members were subjected to demeaning comments about sexual orientation and lesbian relationships, which were frequently made to or about them by RCMP Members and Management;
 - e. as between Class Members and their male colleagues of equivalent experience and seniority, the men were assigned to more complex files and tasks; and
 - f. as between Class Members and their male colleagues of equivalent experience and seniority, the men generally received more positive feedback on their performance reviews.
26. Due to the systemic culture of gender and sexual orientation based harassment and discrimination in the RCMP, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members were ostracized, belittled and humiliated and their career advancement prospects limited.

Discoverability

27. Ms. Tiller was unable to bring an action in respect of her injury, damage or loss because she was battling cancer and was experiencing severe depression and anxiety as a result of ongoing harassment by RCMP Members and Management. Ms. Tiller's physical and psychological circumstances were so serious that she could not reasonably bring an action until October of 2017.
28. Ms. Copland was unable to bring an action in respect of her injury, damage or loss because of the symptoms of depression and anxiety that she suffered as a result of ongoing harassment by RCMP Members and Management. She was also battling multiple sclerosis. It was not until the fall of 2017 that, after years of counselling and treatment, Ms. Copland's psychological and physical state had progressed to the point where she finally had the physical and mental fortitude to pursue a claim against the RCMP. Ms. Copland could not reasonably have brought an action prior to this time.

The Settlement in the Merlo Action

29. A settlement agreement in the Merlo Action was executed on October 6, 2016 and was approved by the Federal Court on May 30, 2017 (the “Settlement Agreement”). The Settlement Agreement implements measures to eliminate workplace harassment and discrimination in the RCMP and resolves the claims of Primary Class Members who experienced or continue to experience gender or sexual orientation based harassment and discrimination while working in the RCMP.

30. Primary Class Members who submit claims for compensation under the Settlement Agreement, and are determined by the Assessor to qualify for monetary compensation at one of the six delineated categories of compensation, will be awarded compensation. The six categories of compensation under the Settlement Agreement are: 1) Minimal Injury: \$10,000; 2) Mild Injury: \$35,000; 3) Low Moderate Injury: \$70,000; 4) Upper Moderate Injury: \$100,000; 5) Significant Injury: \$150,000; and 6) Severe Injury: \$220,000.

31. Included within the scope of the Settlement Agreement are a broad group of women who worked with and within the physical premises of the RCMP, namely: female current and former living regular members, special constables, cadets, auxiliary constables, special constable members, reserve members, civilian members, PSEs and temporary civilian employees.

32. The Settlement Agreement does not include women who are Class Members in the within action.

RCMP Negligence

33. At all material times, the Crown, the RCMP and its management owed a duty of care to Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members to ensure they could work in an environment free of gender and sexual orientation based harassment and discrimination. Specifically, the Crown, the RCMP and its management had a duty to:

- a. use reasonable care to ensure the safety and well-being of Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members;
- b. provide safe workplace environments free from gender and sexual orientation based harassment and discrimination;

- c. provide Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members with equal access to files and tasks as compared to their male colleagues;
- d. establish and enforce appropriate policies, procedures, codes of conduct and guidelines to ensure that Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members would be free from gender and sexual orientation based harassment and discrimination in the workplace;
- e. educate and train RCMP Members and Management to promote a universal understanding that gender and sexual orientation based harassment and discrimination in the workplace are harmful and will not be tolerated;
- f. properly supervise the conduct of RCMP Members and Management to ensure that Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members would not be exposed to gender and sexual orientation based harassment and discrimination in the workplace;
- g. investigate complaints of gender and sexual orientation based harassment and discrimination fairly and with due diligence, and make efforts to prevent retaliation; and
- h. act in a timely manner to resolve situations of gender and sexual orientation based harassment and discrimination.

34. The Crown, the RCMP and its management negligently breached this duty of care owed to Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members by, among other things:

- a. failing to properly supervise RCMP Members and Management so as to prevent and minimize the risk of Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members being subjected to gender and sexual orientation based harassment and discrimination;
- b. failing to have or, alternatively, failing to enforce adequate policies, procedures, codes of conduct and guidelines to minimize the risk of Ms. Tiller, Ms. Copland, Ms. Roach and Class Members being subjected to gender and sexual orientation based harassment and discrimination;
- c. failing to properly investigate allegations of gender and sexual orientation based harassment and discrimination in the workplace in a thorough, timely and impartial manner, or at all;

- d. failing to provide adequate, or any, training and educational programs to RCMP Members and Management regarding the dangerous and harmful effects of gender and sexual orientation based harassment and discrimination;
- e. failing to make sufficient efforts to promote the universal understanding among RCMP Members and Management that gender and sexual orientation based harassment and discrimination are harmful and will not be tolerated;
- f. permitting a workplace environment and culture that normalized the occurrence of gender and sexual orientation based harassment and discrimination;
- g. failing to act in a timely fashion to stop incidents of gender and sexual orientation based harassment and discrimination;
- h. failing to ensure that perpetrators of gender and sexual orientation based harassment and discrimination were appropriately disciplined; and
- i. failing to protect Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members from the continuation or re-occurrence of gender and sexual orientation based harassment and discrimination and failing to protect them from retaliation after reporting such behaviour.

35. The Crown, the RCMP and its management knew, or ought to have known, that the negligent acts described above were of a kind reasonably capable of traumatizing a normal person and that Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members would suffer damages as a result.

Breach of Canadian Charter of Rights and Freedoms

Workplace Discrimination

36. The Crown, the RCMP and its management breached Ms. Tiller's, Ms. Copland's, Ms. Roach's and Class Members' right to be free from discrimination on the basis of sex, pursuant to section 15 of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (U.K.)*, 1982, c. 11 by, among other things:

- a. failing to properly supervise RCMP Members and Management so as to prevent and minimize the risk of Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members being subjected to gender and sexual orientation based harassment and discrimination;
- b. failing to have or, alternatively, failing to enforce adequate policies, procedures, codes of conduct and guidelines to minimize the risk of Ms. Tiller, Ms. Copland, Ms. Roach and Class Members being subjected to gender and sexual orientation based harassment and discrimination;
- c. failing to properly investigate allegations of gender and sexual orientation based harassment and discrimination in the workplace in a thorough, timely and impartial manner, or at all;
- d. failing to provide adequate, or any, training and educational programs to RCMP Members and Management regarding the dangerous and harmful effects of gender and sexual orientation based harassment and discrimination;
- e. failing to make sufficient efforts to promote the universal understanding among RCMP Members and Management that gender and sexual orientation based harassment and discrimination are harmful and will not be tolerated;
- f. permitting a workplace environment and culture that normalized the occurrence of gender and sexual orientation based harassment and discrimination;
- g. failing to act in a timely fashion to stop incidents of gender and sexual orientation based harassment and discrimination;
- h. failing to ensure that perpetrators of gender and sexual orientation based harassment and discrimination were appropriately disciplined; and
- i. failing to protect Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members from the continuation or re-occurrence of gender and sexual orientation based harassment and discrimination and failing to protect them from retaliation after reporting such behaviour.

Exclusion from the Settlement

37. The Crown, the RCMP and its management breached section 15 of the *Charter* by failing to extend to Ms. Tiller, Ms. Copland, Ms. Roach and Class Members the same compensation and benefits given to Primary Class Members under the Settlement Agreement, thus denying Ms.

Tiller, Ms. Copland, Ms. Roach and Class Members equal benefit and treatment under the law.

38. The Settlement is a benefits program. Once a benefits program is provided by the Crown, it cannot be applied in a discriminatory manner.

39. Like Primary Class Members in the Merlo Action, Class Members in the within action come under the enumerated head of “sex” in section 15 of the *Charter*. Given that both Primary Class Members and Class Members are members of a protected group of persons under section 15 of the *Charter*, the Crown was not - with respect to the provision of the Settlement benefits program - entitled to treat Primary Class Members differently from Class Members. The Settlement Agreement is under-inclusive.

40. The liability position of Class Members, as against the Crown, is no stronger or weaker than the liability positions of the various groups that make up the Primary Class in the Merlo Action; all of these women worked with and within the physical premises of the RCMP. There is no difference in the liability positions of the groups that would justify the differential treatment.

41. The decision to grant Settlement benefits to Primary Class Members while denying those same benefits to Class Members results in differential treatment under an enumerated or analogous ground, is discriminatory, and is a breach of section 15 of the *Charter*.

Damages

42. Damages should be awarded pursuant to section 24(1) of the *Charter* as they are just and appropriate to 1) provide compensation that might not otherwise be awarded to Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members, 2) vindicate Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members and society at large for the harm caused by the RCMP’s violation of section 15 of the *Charter*, and 3) deter future breaches.

RCMP Member Negligence

43. At all material times, certain individuals who were RCMP members, civilian members and PSEs and who were each Crown employees, agents and servants (the “Negligent Individuals”) owed a duty of care to Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members to ensure that they could work in an environment free of gender and sexual orientation based harassment

and discrimination.

44. Section 37 of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 (the “*RCMP Act*”) makes it incumbent on every RCMP member and civilian member to, among other things:

- a. respect the rights of all persons;
- b. to maintain the integrity of the law, law enforcement and the administration of justice;
- c. to perform the member’s duties promptly, impartially and diligently, in accordance with the law and without abusing the member’s authority;
- d. to ensure that any improper or unlawful conduct of any member is not concealed or permitted to continue;
- e. to act at all times in a courteous, respectful and honourable manner; and
- f. to maintain the honour of the RCMP and its principles and purposes.

45. The Code of Conduct established by regulation under section 38 of the *RCMP Act* requires RCMP Members and Management to, among other things, respect the rights of every person, and treat every person with respect and courtesy and not engage in discrimination or harassment. Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members plead and rely upon the *Royal Canadian Mounted Police Regulations, 2014, SOR/2014-281*, section 18 and the Scheduled Code of Conduct.

46. The Negligent Individuals breached the aforementioned duties by, among other things:

- a. failing or neglecting to adhere to the applicable legislation, policies, procedures, codes of conduct and guidelines in respect of gender and sexual orientation based harassment and discrimination;
- b. failing to properly investigate allegations of gender and sexual orientation based harassment and discrimination in the workplace in a thorough, timely and impartial manner;
- c. failing or neglecting to exercise their authority to put an end to gender and sexual orientation based harassment and discrimination;
- d. failing to adhere to section 37 of the *RCMP Act*;

- e. failing to hold accountable those found to be in breach of the applicable legislation, policies, procedures, codes of conduct and guidelines;
- f. failing to properly supervise members, civilian members and PSEs; and
- g. harassing and discriminating against Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members because they are woman.

47. The conduct that the RCMP, its management and the Negligent Individuals directed toward Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members was repetitive and extreme and calculated to harass Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members. As a result of this conduct, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members suffered mental and physical injury, particularized below.

48. The RCMP, its management and the Negligent Individuals knew or ought to have known that their conduct was of a kind reasonably capable of terrifying and harming a normal person. In particular, the RCMP, its management and the Negligent Individuals knew or ought to have known that this conduct would cause physical and psychological harm to Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members.

49. The Crown is vicariously liable for the conduct of the Negligent Individuals.

50. The Crown, the RCMP and its management knew or ought to have known about the presence of gender and sexual orientation based harassment and discrimination within the RCMP. Among other things, the Crown, the RCMP and its management commissioned various reports and inquiries that recognized the prevalence of gender based harassment and discrimination within the RCMP and within certain divisions of the RCMP.

Injury and Damage

51. As a result of the fault and negligence of the Crown, the RCMP, its management and the Negligent Individuals, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members have sustained serious injuries and consequences, including:

- a. post-traumatic stress disorder;
- b. depression;

- c. anxiety;
- d. suicidal ideation;
- e. diminished self-worth;
- f. diminished ability to concentrate;
- g. repeated and ongoing nightmares;
- h. difficulty in coping with emotional stress;
- i. attempted suicide;
- j. feelings of guilt, responsibility and self-blame;
- k. insomnia;
- l. irritable bowel syndrome;
- m. failed relationships;
- n. substance abuse;
- o. loss of consortium; and
- p. loss of enjoyment of life.

52. These injuries have caused and continue to cause Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members pain, suffering, loss of enjoyment of life, permanent disability, loss of physical, mental and emotional health and loss of earnings, past and prospective.

53. As a further result of the negligence of the Crown, the RCMP, its management and the Negligent Individuals, Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members have sustained special damages and loss and expenses for medical and psychological treatment. Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members continue to undergo medical and psychological care and treatment and continue to incur loss and expense.

54. As a result of the negligence of the Crown, the RCMP, its management and the Negligent Individuals, the families of Class Members have sustained and will continue to sustain injury, loss and damages, including but not limited to:

- a. actual expenses reasonably incurred for the benefit of Class Members;
- b. travel expenses incurred while visiting Class Members during medical procedures and counselling and recovery; and

- c. loss of income and the value of services provided by family members to Class Members where such services, including nursing and housekeeping, have been provided.

55. These family members seek compensation for the costs set out in paragraph 52 as well as compensation for loss of support, guidance, consortium, care and companionship that they might reasonably have expected to receive from Class Members.

Punitive Damages

56. As set out in detail in this claim, the actions of the Crown, the RCMP, its management and the Negligent Individuals were reprehensible and showed a callous disregard for Ms. Tiller's, Ms. Copland's, Ms. Roach's and other Class Members' rights.

57. The conduct of the Crown, the RCMP, its management and the Negligent Individuals was deliberate, lasted for many years and represented a marked departure from ordinary standards of decent behaviour.

58. Compensatory damages are insufficient in this case. A punitive damage award is necessary to express society's condemnation of the conduct engaged in by the Crown, the RCMP, its management and the Negligent Individuals, and to achieve the goals of both specific and general deterrence.

59. The conduct of the Crown, the RCMP, its management and the Negligent Individuals merits punishment and warrants a claim for punitive damages.

Provincial Health Insurers

60. As a consequence of the conduct of the Crown, the RCMP, its management and the Negligent Individuals, as set out above, the British Columbia Ministry of Health Services (the "Ministry") and comparable provincial and territorial health insurers have incurred various expenses with respect to the medical treatment of Ms. Copland, Ms. Tiller, Ms. Roach and other Class Members. Accordingly, the Ministry and other provincial and territorial health insurers have suffered, and will continue to suffer, damages including the ongoing medical monitoring of Ms. Copland, Ms. Tiller, Ms. Roach and other Class Members, for which they are entitled to be compensated by virtue of their subrogated and direct rights of action in respect of all past and

future insured services.

61. This action is maintained on behalf of the Ministry and all other provincial and territorial health insurers.

Legislation

62. Ms. Tiller, Ms. Copland, Ms. Roach and other Class Members plead and rely upon, *inter alia*:

- a. *Alberta Health Care Insurance Act*, RSA 2000, c A-20
- b. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11
- c. *Charter of Human Rights and Freedoms*, CQLR c C-12
- d. *Civil Code of Quebec*, CQLR c CCQ-1991
- e. *Crown Liability and Proceedings Act*, RSC 1985, c C-50
- f. *Excise Tax Act*, RSC 1985, c E-15
- g. *Family Law Act*, RSO 1990, c F-3
- h. *Fatal Accidents Act*, RSA 2000, c F-8
- i. *Fatal Accidents Act*, RSNL 1990, c F-6
- j. *Fatal Accidents Act*, RSNWT 1988, c F-3
- k. *Fatal Accidents Act*, RSPEI 1988, c F-5
- l. *Fatal Accidents Act*, RSS 1978, c F-11
- m. *Fatal Accidents Act*, RSY 2002, c 86
- n. *Fatal Accidents Act*, RSNWT 1988, c F-3
- o. *Fatal Accidents Act*, SNB 2012, c 104
- p. *Fatal Injuries Act*, RSNS 1989, c 163
- q. *Federal Courts Rules*, SOR/98-106
- r. *Health Care Cost Recovery Act*, SBC 2008, c 27
- s. *Health Insurance Act*, RSO 1990, c H.6
- t. *Health Services and Insurance Act*, RSNS 1989, c 197
- u. *Health Services Insurance Act*, CCSM, c H35
- v. *Hospitals Act*, RSA 2000, c H-12
- w. *Hospital and Diagnostic Services Insurance Act*, RSPEI 1988, c H-8
- x. *Hospital Insurance Agreement Act*, RSNL 1990, c H-7
- y. *Hospital Insurance and Health and Social Services Administration Act*, RSNWT 1988, c T-3
- z. *Hospital Insurance and Health and Social Services Administration Act*, RSNWT 1988, c T-3
- aa. *Hospital Insurance Services Act*, RSY 2002, c 112

- bb. *Hospital Services Act*, RSNB 1973, c H-9
- cc. *Royal Canadian Mounted Police Act*, RSC 1985, c R-10
- dd. *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281
- ee. *Survival of Actions Act*, RSA 2000, c-27
- ff. *The Fatal Accidents Act*, CCSM c F50
- gg. *The Health Administration Act*, RSS 1978, c H-0.0001
- hh. *The Trustee Act*, CCSM c T160
- ii. *Trustee Act*, RSNL 1990, c T-10
- jj. *Trustee Act*, RSNWT 1988, c T-8
- kk. *Trustee Act*, RSNWT (Nu) 1988, c T-8
- ll. *Trustee Act*, RSO 1990, c T.23
- mm. All other comparable and relevant acts and regulations in Canada

Place of Trial

The plaintiff proposes that this action be tried at the City of Vancouver, in the Province of British Columbia.

Date: ~~November 2, 2017~~ April 17, 2019



Lawyers for the plaintiffs, Cheryl Tiller,
Mary-Ellen Copland and Dayna Roach

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