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July 02, 2024 02 juillet 2024			
Robert Lemoine			
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Court File No: T-723-20

FEDERAL COURT

PROPOSED CLASS PROCEEDING

MARGORIE HUDSON

Plaintiff

and

~~HER MAJESTY THE QUEEN~~
HIS MAJESTY THE KING

Defendant

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

FURTHER AMENDED STATEMENT OF CLAIM

(RCMP Racism)

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or 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 plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, 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 Vancouver (telephone 604-666-3232) 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 Office)

Address of local office:

Pacific Centre

P.O. Box 10065

701 West Georgia Street

Vancouver, British Columbia

V7Y 1B6

TO: His Majesty The King
 Department of Justice Canada
 900 – 840 Howe Street
 Vancouver, British Columbia
 V6Z 2S9

Relief Sought

1. The plaintiff claims on her own behalf and on behalf of Class Members (as described below):

- a. an order certifying this action as a class proceeding and appointing Margorie Hudson as the representative plaintiff under the *Federal Courts Rules*, SOR/98-106;
- ai damages arising from the defendant's failure to provide the plaintiff and other Class Members with a workplace free of racism;
- b. 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* (U.K.), 1982, c. 11, s. 24(1) (the "*Charter*") plus damages equal to the costs of administering the plan of distribution;
- c. punitive damages pursuant to the *Charter of Human Rights and Freedoms*, C.Q.L.R. c.C-12, s. 49 and the *Civil Code of Quebec*, C.Q.L.R. c. C-1991, s. 1621 (the "*Québec Charter*");
- d. damages pursuant to the *Family Law Act*, R.S.O. 1990 c. F-3 and comparable legislation in other provinces and territories;
- e. recovery of healthcare costs incurred by the Ministry of Health Services, the Ontario Health Insurance Plan, and other provincial and territorial health insurers on behalf of the plaintiff and Class Members pursuant to the *Health Care Costs Recovery Act*, SBC 2008, c 27, the *Health Insurance Act*, RSO 1990, c H-6, and comparable legislation in other provinces and territories;
- f. pre-judgment and post-judgment interest;
- g. costs; and
- h. such further and other relief as this Honourable Court may deem just.

Nature of this Action

2. This action concerns systemic racism in the Royal Canadian Mounted Police ("RCMP") on the basis of race, national or ethnic origin, colour or religion directed at racialized individuals

who work for or with the RCMP.

3. The Class (to be defined by the Court) is intended to include all racialized individuals who, at any time during the Class Period, worked for or with the RCMP (“Class Members”) including, without limitation, Regular Members, Civilian Members, Special Constables, Cadets, Pre-Cadets, Auxiliary Constables, Special Constable Members, Reservists, Public Service Employees (“PSEs”) appointed to the RCMP pursuant to the *Public Service Employment Act*, R.S.C., 1985, c. P-32 as amended S.C. 2003, c. 22, ss.12 and 13 including Temporary Civilian Employees who, prior to 2014 were appointed under the now-repealed subsection 10(2) of the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 (“RCMP Act”), municipal employees, regional District Employees, non-profit employees, volunteers, Commissionaires, Supernumerary Special Constables, consultants, contractors, students, members of integrated policing units, and persons from outside agencies and police forces who were supervised or managed by the RCMP or who worked in an RCMP controlled workplace. The Class Period is to be set by the Court. April 17, 1985 (when the Charter, s. 15 came into force) to the date this action is certified as a class proceeding. This action excludes claims that arose on or after April 1, 2005 and are subject to sections 208 and 236 of the Federal Public Sector Labour Relations Act.

4. The Class also includes all individuals who, by reason of a relationship with a Class Member, are entitled to assert a claim pursuant to the *Family Law Act*, RSO 1990 c F.3, and equivalent or comparable legislation in other provinces and territories (“Family Members”).

5. The plaintiff alleges that she and fellow racialized Class Members were subjected to racism and racist acts by RCMP Members, Civilian Members, PSEs and RCMP management. The plaintiff alleges that the RCMP and its management breached the constitutional rights of the plaintiff and the Class Members to serve their country in an environment free of racism.

6. As a result of the racism, the plaintiff and Class Members have suffered serious infringement of their constitutional rights to equality, as well as career limitations, serious physical and psychological damages, out-of-pocket expenses and loss of income.

7. This claim excludes any claims Class Members have that were resolved in *Merlo and Davidson v HMTQ*, FCTD T-1685-16, *Tiller, Copland and Roach v HMTQ*, FCTD T-1673-17,

and *Ross, Roy and Satalic v HMTQ*, FCTD T-370-17. This claim also excludes any claims Class Members have in the certified class proceeding *Greenwood and Gray v HMTQ*, FCTD T-1201-18 unless that proceeding is de-certified prior to the trial of this proceeding, and any claims Class Members have in the authorized class action *Delisle c. R.*, QCCS 500-06-000820-163 unless that proceeding is de-authorized prior to the trial of this proceeding.

The Parties

8. The plaintiff, Margorie Hudson, was at all material times a peace officer, servant and employee of the RCMP pursuant to s. 7(1) of the *RCMP Act*. At all material times, the plaintiff held the rank of special native constable and then regular constable. She resides in the province of Manitoba.

9. The defendant, His Majesty the King, represents the Crown and the RCMP in this proceeding pursuant to the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, s. 23 (the “*Crown Liability Act*”). The Crown’s liability arises from the conduct, malfeasance and vicarious liability of the RCMP and individuals who were at all material times Crown employees, agents and servants.

The RCMP and Racialized Minorities

10. From its founding in 1873 as the Royal North West Mounted Police as a colonialist, paramilitary force for European settlement, through to the creation of the Royal Canadian Mounted Police in 1920, and continuing to today, the RCMP has discriminated against racialized minorities within and outside its ranks.

11. Visible minorities made up 22 per cent of Canada’s general population at the last census. The RCMP’s report on employment equity for 2018-19 states that as of April 1, 2019, representation rates among regular RCMP members were 11.5% for visible minorities and 7.5% for Indigenous Peoples.

12. The RCMP has long been hostile towards prospective recruits from racialized minority communities in Canada. Through outright rejection based on prospective members’ apparent colour, race, ethnic origin, place of origin or religion, to systematic racism and discrimination, the RCMP has deliberately harmed Class Members.

13. The RCMP did not admit an Indigenous Canadian into its ranks until Ed Kelly of the Tzeachten Nation in British Columbia in 1959.
14. The RCMP did not admit a Black Canadian into its ranks until David Lawrence Harding began his training at the Depot on June 30, 1967.
15. The RCMP did not admit a Jewish Canadian into its ranks until Fran Saltzman joined in 1975.
16. The RCMP did not admit a turban-wearing Indo Canadian Sikh into its ranks until Baltej Dhillon of British Columbia in 1990.
17. When two former RCMP members of South Asian ancestry went public with accusations of racism in 1993, the RCMP held a press conference denying that there was any racism in its ranks.
18. The RCMP has never had a visible minority Commissioner – its senior leadership has been almost exclusively white. Not until 1999 was a Black Canadian made a commissioned officer, when Ted Upshaw achieved that feat against great odds. Only in 2012 was a Black Canadian made a commanding officer of the RCMP, when Chief Superintendent Craig Gibson of Gibsons Woods, Nova Scotia achieved that rank with “L” Division in Prince Edward Island.
19. Despite the perseverance and sacrifice of these brave persons and other Class Members like them to overcome the barriers erected against them by RCMP leadership and other Members, the RCMP has actively discriminated against Class Members on the basis of their apparent colour, race, ethnic origin or place of origin, and permitted racism directed at Class Members for the same reasons throughout the Class Period.
20. On December 9, 2015, then RCMP Commissioner Bob Paulson publicly admitted that “there are racists in my police force.”
21. On June 12, 2020, RCMP Commissioner Brenda Lucki publicly admitted “that systemic racism is part of every institution, the RCMP included. Throughout our history and today, we have not always treated racialized and Indigenous people fairly.”

The RCMP's Policies, Practices, Processes and Systems

21.1 The RCMP uses the personnel described in paragraph 3 above to fulfill its mandate as a national police force. All these individuals work for or with the RCMP at RCMP workplaces.

21.2 The RCMP Commissioner controls and manages the RCMP and all matters connected with the RCMP, pursuant to the *RCMP Act*. All RCMP workplaces fall within the Commissioner's responsibility.

21.3 The Commissioner oversees the RCMP's policy on human rights, which was first implemented in 1981. The purpose of the policy is to foster a safe workplace free from discrimination, including racial discrimination. The policy is administered by the RCMP's National Human Rights Policy Centre. The human rights policy applies to all individuals working at an RCMP workplace.

21.4 The RCMP has a harassment policy which applies to all individuals working at RCMP workplaces.

21.5 The RCMP Human Resources Sector works out of the RCMP National Headquarters in Ottawa and is responsible for establishing and applying human resources and harassment policies, strategies and programs to RCMP workplaces throughout Canada. Together, the Commissioner and the Human Resources Sector are responsible for maintaining a safe work environment free from racial discrimination and harassment.

21.6 The Commissioner and Human Resources Sector are vitally important in establishing the RCMP's organizational culture. The culture starts at the top with leaders modelling appropriate behaviors. The Human Resources Sector is tasked with ensuring divisional leaders model appropriate behaviors to deal with racial discrimination and harassment.

21.7 The Commissioner also oversees the RCMP's Professional Responsibility Sector ("PRS"). The PRS is tasked with integrating a comprehensive responsibility culture across all RCMP business lines/divisions and entrenching professional responsibility in all RCMP decision-making. The PRS also sets policies and procedures to deal with harassment, human rights complaints, and professional ethics in RCMP workplaces.

21.8 The RCMP failed to implement and enforce adequate policies, practices, strategies and programs to address systemic racism. Among other things:

- a. as a result of inadequate training and consequences, leaders at the RCMP fail to understand what systemic racism is and recognize it in the workplace;
- b. the RCMP relies on self-directed training modules without ensuring the individual learns about and understands systemic racism;
- c. the RCMP relies on one-time harassment training programs without opportunities for refresher training, nor training when the harassment policy is updated;
- d. the RCMP relies on online training modules where RCMP members have admitted to skipping straight to the end without reviewing the contents;
- e. supervisors and managers are offered very little leadership development, and such training is not mandatory;
- f. the RCMP's training methods do not address the overall paramilitary culture of the RCMP;
- g. the RCMP's training programs for Harassment Investigators failed to ensure the investigators properly understood and could identify harassment;
- h. the RCMP's harassment policy and guidebook's definition of harassment is unduly narrow. It is inconsistent with the broader definition of harassment adopted by most legislatures and human rights adjudicators, including the Canadian Human Rights Tribunal;
- i. the RCMP fails to review their programs to evaluate the effectiveness of anti-racism training initiatives;
- j. the Commissioner and other leaders in the organization blame "bad apples" for racist conduct, instead of considering the systemic and internal origins of racist conduct. This approach allows the Commissioner to continue relying on the impression that simply finding these "bad apples" will solve the issue;
- k. the RCMP fails to examine, analyze and eliminate systemic barriers and biases in

organizational processes with potential to negatively impact career progression;

- l. Since the late 1980s, the RCMP's recruitment policies have been focused on compliance with legislation and formal inquiries rather than ensuring a workplace free from racial discrimination and harassment. This is considered 'tokenism'; it exacerbates the belief that the RCMP's diversity programs are likely to select under-qualified employees;
- m. the RCMP's plan to combat discrimination and harassment (the 2013 *Gender and Respect – the RCMP Action Plan*) does not examine the experience of racialized individuals; and,
- n. senior officers say they 'tolerate' allowing Black officers on the force.

21.9 The internal complaints and grievance procedures, and Code of Conduct processes within the RCMP are deficient. Among other things, these suffer from a lack of fairness, fear of reprisals, and the failure to implement effective (or any) penalties.

21.10 The problems are exacerbated for individuals who are not RCMP members due to the power imbalance rooted in the RCMP hierarchy. It is particularly pronounced for individuals who held a temporary, casual or determinate status.

21.11 Code of Conduct complaints are used in a retaliatory manner. Individuals who make complaints of racism face unfounded Code of Conduct complaints. This creates a culture of fear and silence.

21.12 In 2014, the *RCMP Act* was amended in an effort to fix the internal complaint/grievance process. The process is still deficient. The amendments failed to address the problem. Decision makers are subject to little-to-no independent oversight. Individuals who complain remain vulnerable to harassment by their supervisors.

21.13 The Civilian Review and Complaints Commission ("CRCC") is available to review complaints about an RCMP member's conduct. The CRCC has been repeatedly criticized as ineffective. Though the CRCC provides the Commissioner with recommendations, the Commissioner seldom follows these recommendations.

21.14 RCMP management has allowed a culture of racism, fear and silence to fester throughout the organization. Individuals who work in RCMP workplaces suffered the

devastating effects of this culture.

The Plaintiff

22. The plaintiff served in the RCMP from May 1979 to March 2009, first as a special native constable for eleven years and then as a regular constable.

23. The plaintiff was the first female aboriginal status Member in Manitoba. From the very start of her career, she was belittled and made to feel worth less than her non-racialized colleagues. She soon realized that the RCMP and its management had little concern for her safety and well-being.

24. During the time the plaintiff worked for the RCMP, she was subjected to persistent racism by non-racialized RCMP Members and RCMP management. She frequently observed other racialized Class Members being treated differently by their non-racialized colleagues and management, including but not limited to:

- a. explicit and demeaning comments made about their race, national or ethnic origin, religion and/or colour;
- b. implicit and explicit comments dismissing their ability to carry out their duties because of their race, national or ethnic origin, religion and/or colour;
- c. non-racialized members of equivalent rank/experience receiving greater accommodation on sick leave, vacation requests, shift changes and transfer requests;
- d. non-racialized members of equivalent rank/experience assigned to more complex, high-profile files and tasks, receiving better career training, education, counselling and mentorship, receiving more positive performance reviews, and being more likely to be considered for promotion.

This had the effect of demeaning and humiliating, as well as limiting the careers of, racialized Class Members.

25. Although the plaintiff worked diligently throughout her career and had a high success rate of solving difficult and demanding cases, and despite her desire to move beyond her position of regular constable, she was never considered for promotion. All the while, she watched fellow

non-racialized colleagues climb the ranks and often take the credit for her good work.

26. When she asked to be considered for a promotion, the plaintiff was told that she should be happy the RCMP had recruited her in the first place.

27. Despite the plaintiff's requests, the RCMP and its management never sent her to off reserve locations.

28. The plaintiff observed that fellow racialized colleagues like herself were transferred only to aboriginal communities. The plaintiff was given very limited chances to seek specialized training and career opportunities.

29. During her career, the plaintiff was subjected to social stereotypes, segregation and bias based on her race. For example, she was told by her corporal that she was "fat because all Indians are fat". On another occasion, when a rotting corpse was discovered in a river, the plaintiff heard a fellow non-racialized RCMP Member say "it smells like an Indian."

30. Further, the plaintiff was told that she should be the one to investigate a case of sexual assault on reserve "because she was native." In contrast, her opportunities for investigative work off reserves were limited.

31. The plaintiff was sent to do countless dangerous jobs by herself with no back up, in situations where non-racialized RCMP Members were not sent alone. She was alone, helpless and feared for her safety and well-being.

32. During her career at the RCMP, the plaintiff saw that there was a lack of aboriginal representation among the higher ranks. In fact, it was not until she joined the RCMP that she fully understood the concept and impact of racism.

33. During her career at the RCMP, the plaintiff witnessed racism and racist acts by RCMP Members and RCMP management towards the indigenous people on reserve. For example, the plaintiff witnessed a corporal throw a steel flashlight at an indigenous man and when he missed, he said: "that f*in Indian enemy, I'll get him next time."

34. The plaintiff reported to RCMP management that she witnessed a non-racialized RCMP Member pick up an indigenous girl and swing her up against a cement wall. She was again ignored. The plaintiff overheard this same RCMP Member say "don't you know that the Indians

used to rape our women and burn our wagons.” The plaintiff was horrified and felt the need to apologize on his behalf.

35. On many occasions, the plaintiff complained to her superiors, including by way of a letter, signed by her immediate supervisor, to former Commissioner Zaccardelli, that she was suffering racism and racist acts by non-racialized Members and RCMP management. These complaints were never investigated; they were completely ignored.

36. On one occasion, some people in the community sent a letter to the RCMP after seeing the way in which the plaintiff was treated by other RCMP Members and RCMP management. Nothing ever came of it.

37. The plaintiff’s complaints often led to retaliatory abuse from non-racialized Members and/or management. Her superiors not only failed to stop the retaliatory conduct, they often participated in it and intimidated her.

38. On one occasion, the plaintiff was strongly encouraged to drop a complaint or otherwise face a transfer. She was, in fact, transferred after speaking out against the events she and other racialized RCMP members were experiencing.

39. When the plaintiff requested time off to care of her son, her request was refused and she was, instead, encouraged to quit.

40. The plaintiff was remunerated less than other non-racialized RCMP Members for the same work duties.

41. The discrimination was so severe, the plaintiff began to feel that her enemy was not the criminal conduct with which she dealt during her career but rather the RCMP itself.

42. As a consequence of the ongoing racism and racist acts she endured while at the RCMP, the plaintiff suffered stress, high blood pressure, anxiety, depression, excessive weight gain, anger, difficulty maintaining relationships and social phobia.

43. By 2009, the plaintiff hit her breaking point and could no longer endure the discrimination to which she was being subjected, the fact that her complaints were being dismissed and ignored and the resulting stress, anguish and negative physical and psychological effects she was experiencing.

44. The plaintiff recalls not even being able to hold her pencil, feeling terrible pain in her neck and feeling like she might have a heart attack. As a result, she made the difficult decision to take medical leave in early 2009 and ultimately decided to quit. She could not return to an environment that was causing her so much distress. The plaintiff recalls being so troubled at the time she quit, that she threw her badge in the garbage.

45. The RCMP classified Margorie Hudson's departure as a retirement. The RCMP denied her an exit interview.

46. The plaintiff relived the acts she was subjected to for years afterwards and felt a strong need to rid herself of her difficult memories in an attempt to begin the healing process and move forward. She has burned all the photos and other remnants she had of her time in the RCMP.

47. As a result of the psychological effects she was experiencing, the plaintiff consulted a psychologist after she left the RCMP and continues to consult a psychologist.

47.1 The plaintiff's partner, who passed away in 2005, and the plaintiff's son were also impacted. For years they watched the plaintiff struggle and suffer physically, psychologically and emotionally without being able to help her. They were traumatized by the plaintiff coming home every day stressed and crying.

47.2 The plaintiff's son suffers from PTSD. Only after the plaintiff brought this class action did he start to open up about how he was affected. He has also experienced a loss of support and care in relation to the plaintiff's ordeal. During his childhood, the plaintiff was not allowed to take leave, even without pay, to care for him when he was ill.

48. Due to the culture of racism in the RCMP, the plaintiff and the Class Members were ostracized and their career advancement prospects limited.

49. The plaintiff was unable to bring an action in respect of her injury, damage or loss as a consequence of the symptoms of depression and anxiety that she suffered as a result of ongoing racism by individual non-racialized Members and management of the RCMP. The plaintiff could not reasonably have brought an action prior to this time, when her psychological state has progressed to the point where she finally has the mental fortitude to pursue a claim and when the public admissions by Commissioner Lucki and the accompanying public scrutiny have made it slightly safer to do so.

Breach of Canadian Charter of Rights and Freedoms and the Québec Charter

50. The RCMP and its management breached the plaintiff's and Class Members' right to be free from discrimination on the basis of race, national or ethnic origin, colour and religion as provided in s. 15 of the *Charter* and s. 10 of the *Québec Charter* by, among other things:

- a. failing to properly supervise RCMP management, Members, Civilian Members and PSEs so as to prevent and/or minimise the risk of the plaintiff and the Class Members being subjected to racism;
- b. failing to have or, in the alternative failing to enforce adequate policies, procedures, codes of conduct and/or guidelines to ensure the plaintiff's and the Class Members' safety, health and welfare and to minimise the risk of them being subjected to racism;
- c. failing to properly investigate allegations of racism in a thorough, timely and impartial manner, or at all;
- d. permitting practices which denied employment training and advancement opportunities to the plaintiff and the Class Members on the basis of race, national or ethnic origin, colour, or religion;
- e. failing to provide adequate, or any, educational programs and/or training to RCMP management, Members, Civilian Members and PSEs regarding the harmful effects of racism;
- f. failing to make sufficient efforts to promote the understanding among RCMP management, Members, Civilian Members and PSEs that racism is harmful and is not to be tolerated;
- g. failing to apply the provisions of the *RCMP Act* and its regulations, and the Code of Conduct (established under s. 38 of the *RCMP Act*) in a fair and equal manner to the plaintiff and the Class Members;
- h. permitting a workplace environment and/or culture that normalises the occurrence of racism;

- i. failing to adjudicate complaints of racism fairly, or at all;
- j. failing to act in a timely manner to stop incidents of racism;
- k. failing to ensure the reprimand/punishment of perpetrators of racism; ~~and~~
- l. failing to protect the plaintiff and the Class Members from continued or recurring racism and/or failing to protect them from retaliation after reporting such behaviour; and
- m. failing to act honourably and in good faith in dealing with Indigenous Class Members, in accordance with the Honour of the Crown.

51. ~~In addition,~~ Section 20.2(1) of the RCMP Act, and the RCMP Regulations, and section 124 of the Canada Labour Code, were applied unequally, unfairly and improperly by the RCMP and its management with respect to the plaintiff and Class Members on the basis of enumerated grounds under the *Charter*, s. 15 and under the *Québec Charter*, s. 10, on a discriminatory basis, namely on the basis of race, national or ethnic origin, colour, and religion. The RCMP failed to provide a safe and discrimination-free work environment for racialized individuals as compared with the treatment of non-racialized individuals. Racialized individuals were harassed and discriminated against.

52. Damages should be awarded pursuant to section 24 of the *Charter* and section 49 of the *Québec Charter* as they are just and appropriate (i) to provide compensation that might not otherwise be awarded to the plaintiff and to the Class Members, (ii) to vindicate the plaintiff, the Class Members and society at large for the harm caused by the RCMP's violation of section 15 of the *Charter* and section 10 of the *Québec Charter* and (iii) to deter future breaches.

53. Moreover, at all material times, individuals who were Members, Civilian Members and PSEs were Crown employees, agents and servants and thus owed a duty to the plaintiff and the Class Members to ensure that they worked in an environment free of racism.

Systemic Negligence

53A. The defendant owed a duty to the plaintiff and Class Members to ensure they could

work in an environment free of racism. This duty is informed by the *RCMP Act*, *RCMP Regulations*, and the Code of Conduct.

53B. The defendant's duty to the Indigenous Class Members to ensure they could work in an environment free of racism is further grounded in the Honour of the Crown and the fiduciary duty which exists between the Crown and Indigenous Class Members.

53C. Specifically, the defendant has a duty of care to:

- a. properly supervise RCMP management, Members, Civilian Members and PSEs so as to prevent and/or minimise the risk of the plaintiff and the Class Members being subjected to racism;
- b. to properly investigate allegations of racism in a thorough, timely and impartial manner;
- c. prevent practices which denied employment training and advancement opportunities to the plaintiff and Class Members on the basis of race, national or ethnic origin, colour, or religion;
- d. provide adequate educational programs and training to RCMP management, Members, Civilian Members and PSEs regarding the harmful effects of racism;
- e. make sufficient efforts to promote the understanding among RCMP management, Members, Civilian Members and PSEs that racism is harmful and is not to be tolerated;
- f. apply the provisions of the *RCMP Act*, its regulations, and the Code of Conduct (established under s. 38 of the *RCMP Act*) in a fair and equal manner to the plaintiff and Class Members;
- g. prevent a workplace environment or culture that normalises the occurrence of racism;
- h. adjudicate complaints of racism promptly and fairly;
- i. act in a timely manner to stop incidents of racism;
- j. ensure the reprimand/punishment of perpetrators of racism; and

- k. protect the plaintiff and Class Members from continued or recurring racism and to protect them from retaliation after reporting such behaviour.

53D. As described above, the defendant breached its duty.

53E. The defendant knew, or ought to have known, that its negligence would cause injury and that the plaintiff and Class Members would suffer damages as a result.

Injury and Damage

54. As a result of the wrongdoing of the RCMP, its management and its employees, agents and servants, the plaintiff and the Class Members have sustained serious injuries and consequences, including:

- a. post-traumatic stress disorder;
- b. physical, psychological and/or emotional harm or distress;
- c. diminished self-worth;
- d. diminished ability to concentrate;
- e. repeated and ongoing nightmares;
- f. depression;
- g. anxiety;
- h. difficulty in coping with emotional stress;
- i. suicidal ideation;
- j. attempted suicide;
- k. feelings of guilt, responsibility, and self-blame;
- l. nervous shock;
- m. mental anguish;
- n. insomnia;
- o. irritable bowel syndrome;

- p. failed relationships;
- q. substance abuse;
- r. career limitations or loss of promotional opportunities;
- s. losses due to early retirement;
- t. losses due to any impact on pension amount and/or entitlement;
- u. loss of consortium; and
- v. loss of enjoyment of life.

55. These injuries have caused and continue to cause the plaintiff and the Class Members pain, suffering, loss of enjoyment of life, permanent disability, loss of physical, mental and emotional health and loss of income, past and prospective.

56. These injuries aggravated or exacerbated other injuries of the plaintiff and the Class Members such that they are indivisible.

57. As a further result of the breaches of the RCMP, its management and its employees, agents and servants, the plaintiff and the Class Members have sustained certain special damages and loss and expenses for medical and psychological treatment. The plaintiff and the Class Members continue to undergo medical and psychological care and treatment and continue to incur loss and expense.

58. As a result of the wrongdoing of the RCMP, its management and its employees, agents and servants, Family Members have also 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/or counselling and/or recovery; and
- c. loss of income and/or the value of services provided by Family Members to Class Members, where such services, including nursing and housekeeping have been provided.

59. Family Members seek compensation for the costs set out above 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

60. A punitive damage award in this case is necessary to express society's condemnation of the conduct engaged in by the RCMP, its management and its employees, agents and servants, and to achieve the goals of both specific and general deterrence.

61. The actions described above of the RCMP, its management and its employees, agents and servants were reckless, arrogant, high-handed, wanton, willful, reprehensible, vindictive, malicious and abusive and showed a callous disregard for the rights of the plaintiff and the Class Members. The conduct of the RCMP, its management and its employees, agents and servants was deliberate, lasted for many years and represented a marked departure from ordinary standards of decent behaviour.

62. Compensatory damages are insufficient in this case. The conduct of the RCMP, its management and its employees, agents and servants merits punishment and warrants a claim for punitive damages.

62A. Moreover, the actions of the RCMP, its management, and its employees, agents and servants demonstrate a flagrant disregard for the Honour of the Crown, which requires the Crown to act honourably and in good faith when dealing with Indigenous peoples.

63B. Compensatory damages are insufficient in the circumstances of the Defendant's disregard for the rights of the plaintiff and other Indigenous Class Members. Punitive damages are warranted.

Provincial Health Insurers

63. As a consequence of the conduct of the RCMP, its management and its employees, agents and servants, as set out above, the British Columbia Ministry of Health Services (the "Ministry"), Ontario Health Insurance Plan ("OHIP") and comparable provincial and territorial health insurers have incurred expenses with respect to the medical treatment of the plaintiff and the Class Members. Accordingly, the Ministry, OHIP and other provincial and

territorial health insurers have suffered, and will continue to suffer, damages including the ongoing medical treatment of the plaintiff and the 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.

64. This action is maintained on behalf of the Ministry, OHIP and all other provincial and territorial health insurers. The plaintiff pleads the following provincial and territorial statutes, as amended, in support of a claim for recovery of health care costs incurred by provincial and territorial governments:

- a. *Health Care Cost Recovery Act*, SBC 2008, c 27;
- b. *Medicare Protection Act*, RSBC 1996, c 286;
- c. *Pharmaceutical Services Act*, SBC 2012, c 22;
- d. *Hospital Act*, RSA 2000, c H-12;
- e. *Crown's Right of Recovery Act*, SA 2009, c C-35;
- f. *The Health Administration Act*, RSS 1978, c H-0.0001 (formerly known as the *Department of Health Act*);
- g. *Health Services Insurance Act*, CSSM s H35;
- h. *Health Insurance Act*, RSO 1990, c H.6;
- i. *Home Care and Community Services Act*, 1994, SO 1994, c26;
- j. *Health Services Act*, RSNB 1973, c H-3;
- k. *Medical Services Payment Act*, RSNB 1973, c M-7;
- l. *Hospital Services Act*, RSNB 1973, c H-9;
- m. *Family Services Act*, SNB 1980, c F-2.2;
- n. *Hospital and Diagnostic Services Insurance Act*, RSPEI 1988, c H-8;
- o. *Health Services Payment Act*, RSPEI 1988, c H-2;
- p. *Health Services and Insurance Act*, RSNS 1989, c 197;

- q. *Hospital Insurance Agreement Act*, RSN 1990, c H-7;
- r. *Medical Care and Hospital Insurance Act*, SNL 2016, c M-5.01;
- s. *Hospital Insurance and Health and Social Services Administration Act*, RSNWT 1988, c T-3;
- t. *Hospital Insurance and Health and Social Services Administration Act*, RSNWT (Nu) 1988, c T-3;
- u. *Medical Care Act*, RSNWT (Nu) 1988, c M-8;
- v. *Health Insurance Act*, CQLR c A-29; and
- w. *Hospital Insurance Act*, RSQ c A-28.

Legislation

65. In addition to the statutes set out above, the plaintiff pleads *inter alia* the following, as amended, on behalf of herself and the Class Members:

- a. *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;
- b. *Charter of Human Rights and Freedoms*, C.Q.L.R. c. C-12 and *Civil Code of Québec*, C.Q.L.R. c.C-1991;
- c. *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50;
- d. *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10;
- e. *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281;
- f. *Survival of Actions Act*, RSA 2000, c S-27;
- g. *The Survival of Actions Act*, SS 1990, c S-66.1;
- h. *Survival of Actions Act*, RSNS 1989, c 453;
- i. *Survival of Actions Act*, RSNB 2011, c 227;
- j. *Survival of Actions Act*, RSPEI 1988, c S-11;

- k. *Survival of Actions Act*, RSNL 1990, c S-32;
- l. *Family Compensation Act*, RSBC 1996, c 126;
- m. *Fatal Accidents Act*, RSY 2002, c 86;
- n. *Fatal Accidents Act*, RSA 2000, c F-8;
- o. *The Fatal Accidents Act*, RSS 1978, c F-11;
- p. *Fatal Accidents Act*, SNu 2010, c 14;
- q. *The Fatal Accidents Act*, CCSM c F50;
- r. *Family Law Act*, RSO 1990, c F 3;
- s. *Fatal Accidents Act*, RSNL 1990, c F-6;
- t. *Fatal Accidents Act*, RSNB 2012, c 104;
- u. *Fatal Injuries Act*, RSNS 1989, c 163; and
- v. *Fatal Accidents Act*, RSPEI 1988, c F-5.

Place of Trial

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

Date: ~~July 14, 2022~~ July 2, 2024



Lawyer for the Plaintiff Margorie Hudson

David A. Klein
Klein Lawyers LLP
400 - 1385 West 8th Avenue
Vancouver, BC V6H 3V9
Telephone: 604-874-7171
Fax: 604-874-7180