

Federal Court



Cour fédérale

Date: 20220920

Docket: T-1201-18

Ottawa, Ontario, September 20, 2022

PRESENT: Madam Justice McDonald

CLASS PROCEEDING

BETWEEN:

GEOFFREY GREENWOOD and TODD GRAY

Plaintiffs

and

HIS MAJESTY THE KING

Defendant

ORDER

UPON MOTION by the Plaintiffs for an Order settling the Certification Order in this action, as directed by the Federal Court of Appeal in the Reasons for Judgment dated September 21, 2021 (2021 FCA 186), wherein the Federal Court of Appeal upheld the certification of this action as a class proceeding pursuant to the *Federal Courts Rules*, SOR/98-106 and remitted settlement of the Certification Order to the Federal Court;

AND UPON considering all of the materials filed, including the consent of the parties;

THIS COURT ORDERS that:

1. This matter is hereby certified as a Class Proceeding.

2. The definition of the Class shall be:

All current or former RCMP Members (ie. Regular, Civilian, and Special Constable Members) and Reservists who worked for the RCMP between January 1, 1995 and the date a collective agreement becomes or became applicable to a bargaining unit to which they belong.

This Class Proceeding excludes claims that are covered under *Merlo v Her Majesty the Queen*, Federal Court File No. T-1685-16, *Ross et al v Her Majesty the Queen*, Federal Court File No. T-370-17, and *Gaétan Delisle et al c Sa Majesté Le Roi*, Quebec Superior Court No. 500-06-000820-163.

3. Geoffrey Greenwood and Todd Gray are appointed as Representative Plaintiffs for the Class.

4. The nature of the claims made on behalf of the Class is systemic negligence. In particular, the Representative Plaintiffs allege that there was a culture of systemic bullying, intimidation and harassment at the RCMP that affected all who worked for the RCMP and that in allowing this culture to manifest and permeate the organization from its highest levels, the RCMP failed to fulfil its duties to provide the Class Members with a work environment free of bullying, intimidation and harassment, generally, as well as based on any grounds (including but not limited to sex, gender, race, ethnicity or religion). The Representative Plaintiffs claim that the defendant His Majesty the King is vicariously liable for the actions of the RCMP's agents, employees, and servants in this regard.

5. The Class claims the following relief:

a) a declaration that the Crown was negligent in failing to provide the Class with a workplace free from bullying, intimidation, and harassment;

- b) a declaration that the Crown failed to fulfil and/or breached its common law, contractual and statutory duties to provide Class Members with a workplace free from bullying, intimidation, and harassment;
- c) general damages;
- d) special damages;
- e) loss of income;
- f) exemplary and punitive damages; and
- g) damages equal to the costs of administering the plan of distribution of the recovery of this action.

6. The common questions are approved as follows:

Negligence

- 1) Did the RCMP, through its agents, servants and employees owe a duty of care to the Plaintiffs and other Class Members to take reasonable steps in the operation or management of the Force to provide them with a work environment free from bullying, intimidation and harassment?
- 2) If yes, was there a breach of this duty by the RCMP through its agents, servants and employees?
- 3) If yes, was the Crown vicariously liable for the failure of its agents, servants and employees at the RCMP, to take reasonable steps in the operation and management of the Force to provide a work environment free from bullying, intimidation and harassment?

Damages

- 4) Does the conduct justify an award of aggravated, exemplary and/or punitive damages?
7. Kim Spencer McPhee Barristers P.C. is appointed as counsel to for the Class.
8. The Plaintiffs' Litigation Plan in the form attached as **Schedule "A"** is approved.
9. The Notice of Certification as a Class Proceeding, substantially in the form and content attached to this Order as **Schedule "B"** (English version) and **Schedule "C"** (French version), is approved (the "Certification Notice").
10. The Certification Notice will be distributed substantially in the manner set out in the Notice Program attached as **Schedule "D"**.
11. Trilogy Class Action Services is appointed as Notice Administrator to administer the Notice Program in accordance with the terms set out in the Proposal dated September 7, 2022, attached as **Schedule "E"**.
12. The costs of effecting Notice of Certification shall be paid by the Defendant up to a maximum of \$300,000, inclusive of taxes.
13. For the purpose of facilitating the Notice Program, the RCMP and other federal government departments and agencies who are reasonably expected to have relevant names and contact information shall make reasonable efforts to identify and provide to the Notice Administrator the names and last known mailing addresses and email addresses, or if unavailable, other last known contact information of the Class Members, except where disclosure of such information is prohibited by law.

14. The Notice Program satisfies the requirements of sections 334.34, 334.35, 334.36 and 334.37 of the *Federal Courts Rules* and represents fair and reasonable notice of all persons entitled to Notice of Certification.
15. The Opt-Out Form, substantially in the form and content attached to this Order as **Schedule “F”** (English version) and **Schedule “G”** (French version), is approved.
16. A member of the Class may opt out of this class proceeding by returning by mail or email a signed Opt-out Form, in substantially the same form as attached as Schedules “F” and “G”, postmarked or otherwise received by no later than **5:00 p.m. E.S.T. on November 23, 2022** to the addresses set out in the Certification Notice.
17. No person may opt out a mentally incapable Class Member without permission of the Court after notice to the Public Guardian and Trustee, as applicable to Class Members resident in Ontario, and to comparable or equivalent entities in the other provinces and territories as applicable to Class Members resident in other provinces and territories.
18. Canada will serve on the Plaintiffs and file with the Court an affidavit stating the dates upon which the Certification Notice was transmitted and published as part of the Internal Notice Program as set out at paragraph 4 of Schedule “D”.
19. The Notice Administrator will deliver to the parties and file with the Court under seal, a report outlining the methods and dates on which the notice program was effected, and attaching a listing of the names and addresses of all persons who have opted out of the class proceeding in accordance with this Order, together with a copy of the forms submitted, within 30 days of the opt-out deadline.

20. No other class proceeding may be commenced with respect to the matters addressed in this action, absent leave of this Court. This provision is effective *nunc pro tunc* as of January 23, 2020.
21. No costs are payable on this motion.

"Ann Marie McDonald"

Judge