

Cour fédérale



Federal Court

Date : 20240402

Dossier : T-2158-16

Référence : 2024 CF 505

[TRADUCTION FRANÇAISE]

Ottawa (Ontario), le 2 avril 2024

En présence de madame la juge McDonald

RECOURS COLLECTIF ENVISAGÉ

ENTRE :

**MARC FRENETTE,
WALLACE FOWLER ET
JEAN-PIERRE ROBILLARD**

demandeurs

et

LE PROCUREUR GÉNÉRAL DU CANADA

défendeur

ORDONNANCE ET MOTIFS

[1] Dans le cadre de la présente requête, les parties demandent à la Cour d'approuver un plan d'avis visant à communiquer le règlement proposé du présent recours collectif envisagé aux éventuels membres du groupe.

[2] Le présent recours collectif concerne la discrimination raciale et le harcèlement racial au sein des Forces armées canadiennes (les FAC). Les parties ont accepté les modalités d'un règlement proposé relativement au présent recours collectif et doivent désormais les communiquer aux personnes qui seraient visées par la définition proposée de [TRADUCTION] « membre du groupe ».

I. Contexte applicable

[3] La déclaration a été déposée le 14 décembre 2016. Les parties ont entrepris des discussions en vue de parvenir à un règlement, et, le 29 août 2019, elles se sont entendues sur la structure d'un accord visant à régler le présent recours collectif. La version définitive de l'accord de règlement n'est pas encore terminée.

[4] Dans l'accord de règlement, la définition proposée de [TRADUCTION] « membre du groupe » est ainsi libellée :

[TRADUCTION]

Toute personne qui est enrôlée dans les Forces armées canadiennes depuis le 17 avril 1985 ou qui l'a été à partir de cette date, et qui a été au service des Forces armées canadiennes pendant toute période allant jusqu'à la date d'approbation, inclusivement, et qui affirme avoir fait l'objet de discrimination raciale ou de harcèlement racial, ou des deux.

[5] Le règlement proposé comprend une indemnité individuelle pour les membres du groupe (régime d'évaluation de l'indemnité pécuniaire) et des mesures internes au sein des FAC (les mesures de réparation systémiques) conçues pour remédier aux problèmes systémiques internes.

[6] Conformément aux articles 334.34 et 334.37 des *Règles des Cours fédérales*, DORS/98-106 (les Règles), la Cour doit approuver le plan de communication visant à informer les éventuels membres du groupe du règlement proposé. Les parties proposent un plan d'avis comprenant l'envoi d'une version abrégée et d'une version longue de l'avis (le plan d'avis) pour fournir les renseignements nécessaires aux membres du groupe, notamment :

- a) les modalités du règlement proposé du présent recours collectif;
- b) les dates d'instruction de la requête visant à autoriser l'instance comme recours collectif, à déterminer si le règlement proposé est juste, raisonnable et dans l'intérêt supérieur du groupe, et à approuver les honoraires des avocats du groupe (la requête en approbation du règlement);
- c) les dates de l'instruction de la requête en approbation du règlement, soit le 16 et le 17 juillet 2024.

II. Réparations demandées dans le cadre de la requête

[7] Les demandeurs, avec le consentement du défendeur, sollicitent une ordonnance :

- a) approuvant la forme et le contenu des avis;
- b) approuvant le plan d'avis.

[8] À l'appui de la présente requête, les avocats du groupe ont déposé l'affidavit de Lydia S. Bugden, c.r., souscrit le 12 mars 2024. M^{me} Bugden est directrice générale et associée directrice de Stewart McKelvey, le cabinet d'avocats représentant les membres du groupe dans cette affaire.

III. Analyse

[9] Les exigences en matière de notification sont énoncées aux articles 334.34 et 334.37 des Règles. Elles sont formulées en ces termes :

<p>334.34 Lorsqu'une offre en vue d'un règlement est présentée ou qu'un règlement est approuvé aux termes de la règle 334.29, le représentant demandeur du groupe ou du sous-groupe en donne avis aux membres concernés conformément aux directives d'un juge quant au contenu de l'avis et à son mode de communication.</p>	<p>334.34 Notice that an offer to settle has been made or that a settlement has been approved under rule 334.29 shall be given by the representative plaintiff or applicant to the class or subclass members in accordance with the directions of a judge in respect of the content of and means of giving the notice.</p>
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...

[...]

<p>334.37 Tout avis prévu aux règles 334.32 à 334.35 doit être approuvé par un juge avant d'être communiqué.</p>	<p>334.37 Notices referred to in rules 334.32 to 334.35 shall be given unless they have been approved by a judge.</p>
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[10] La procédure de notification joue un rôle indispensable, car elle permet aux membres du groupe d'obtenir des renseignements au sujet de leurs droits, en particulier la possibilité de s'exclure du recours collectif, et parfois d'un règlement intervenu dans le dossier (*Société canadienne des postes c Lépine*, 2009 CSC 16 au para 42; *Wenham c Canada (Procureur général)*, 2019 CF 383 aux para 10-11).

[11] Le contenu de l'avis doit constituer une « communication suffisamment transparente, informative et adéquate » de façon à ce que les membres du groupe puissent prendre une décision éclairée au sujet de l'accord de règlement, et déterminer s'ils l'appuieront, s'ils s'en

excluront ou s'ils y feront opposition (*Lin c Airbnb, Inc*, 2021 CF 1260 aux para 54 et 55 (*Airbnb*)).

[12] En l'espèce, le plan d'avis précise que la valeur totale du règlement s'élève à 150 millions de dollars. On y explique que chaque membre du groupe peut recevoir un somme se situant entre 5 000 \$ et 35 000 \$ provenant du fonds de règlement, et qu'il est possible que ces paiements individuels soient ajustés à la hausse ou à la baisse au prorata selon la taille du groupe.

[13] Les honoraires proposés des avocats du groupe s'élèvent à 5 millions de dollars, débours et taxes en sus. Les honoraires seront payés séparément et ne seront pas portés en réduction des fonds de règlement de 150 millions de dollars. Il s'agit d'une caractéristique importante du règlement proposé, car les honoraires ne réduiront pas le montant du fonds de règlement pour les membres du groupe.

[14] La version abrégée de l'avis comporte une section intitulée [TRADUCTION] « Droits et options en vertu de la loi », où sont énumérées les options dont disposent les membres du groupe : 1) ne rien faire; 2) s'exclure du recours collectif; 3) présenter une déclaration de soutien; 4) faire opposition au règlement proposé; 5) participer à l'audience relative au règlement. La version longue de l'avis comprend les mêmes renseignements ainsi que des détails supplémentaires sur ces droits et ces options.

[15] Les demandeurs et le défendeur sont conjointement responsables de la communication des avis. Le défendeur supervisera l'envoi des avis proposés aux membres du groupe actuels des

FAC et aux bénéficiaires de prestations d'Anciens Combattants Canada par l'entremise des médias sociaux, de l'intranet, des sites Web et des applications mobiles. Les avocats du groupe publieront les avis sur leur site Web, les transmettront à tous les membres du groupe connus et à différentes organisations d'anciens combattants, et prendront les mesures nécessaires pour que la version abrégée de l'avis figure dans trois publications destinées aux anciens combattants.

[16] Les avocats du groupe ont retenu les services d'une entreprise de relations publiques, NATIONAL, pour faciliter la création d'un site Web portant sur le recours collectif, la diffusion de communiqués de presse et l'optimisation des occasions de visibilité médiatique, et pour diffuser des publicités ciblées et des publicités numériques dans les journaux, en français et en anglais.

[17] J'estime que le plan d'avis proposé répond à l'objectif global qui consiste à veiller à ce que les membres du groupe comprennent leurs droits et les options à leur disposition, et soient en mesure de prendre des décisions éclairées relativement à ce qu'ils doivent faire au sujet du processus d'approbation du règlement.

[18] Par conséquent, j'accueillerai la requête selon les conditions demandées par les parties.

ORDONNANCE DANS LE DOSSIER T-2158-16

LA COUR REND L'ORDONNANCE suivante :

1. La version abrégée et la version longue de l'avis concernant l'audience relative à l'approbation du règlement sont par la présente approuvées, telles qu'elles figurent à l'annexe A et à l'annexe B de la présente ordonnance (les avis), sous réserve du droit des parties d'y apporter des modifications mineures qui peuvent être nécessaires ou souhaitables.
2. Les parties doivent faire traduire les avis en français avant de les transmettre.
3. Les parties doivent transmettre les avis conformément au plan d'avis joint à la présente ordonnance en tant qu'annexe C, et ce, au plus tard le 1^{er} mai 2024.
4. Le plan d'avis respecte les exigences prévues aux articles 334.34 et 334.37 des *Règles des Cours fédérales* et constitue un avis valable et suffisant aux membres du groupe concernant l'audience d'approbation du règlement.
5. Les parties ont le droit d'apporter des modifications mineures au plan d'avis si celles-ci sont nécessaires ou souhaitables.
6. Si un membre du groupe souhaite participer à l'audience d'approbation du règlement, que ce soit pour appuyer le règlement proposé ou les honoraires et débours des avocats du groupe, ou s'y opposer, le membre du groupe en question doit remplir un « formulaire de participation » dont le libellé correspond pour l'essentiel à celui joint à la présente ordonnance en tant qu'annexe D. Le membre du groupe doit transmettre le formulaire de participation rempli aux avocats du groupe par la poste, par service de messagerie ou par courriel, aux coordonnées

indiquées dans le formulaire de participation, et s'assurer que les avocats du groupe le reçoivent au plus tard le 27 juin 2024 (la « date limite de participation »).

7. À l'audience d'approbation du règlement, la Cour ne doit pas tenir compte, sans autorisation, de tout formulaire de participation que les avocats du groupe ont reçu après la date limite de participation.
8. Les avocats du groupe doivent signifier au défendeur et déposer, au plus tard le 5 juillet 2024, un affidavit comprenant des copies de tous les formulaires de participation qu'ils ont reçus avant la date limite de participation.

« Ann Marie McDonald »

Juge

Traduction certifiée conforme
Mélanie Lefebvre

SCHEDULE A

Short Form Notice

LEGAL NOTICE

**Have you experienced racial discrimination or
racial harassment in the Canadian Armed
Forces?**

**A proposed class action settlement may affect you.
Please read this notice carefully.**

*The Federal Court has authorized this notice.
This is not a solicitation from a lawyer or a lawsuit against you.*

While not admitting liability, the Government of Canada has agreed to settlement of a class action ("**Class Action**") for current and former members of the Canadian Armed Forces (CAF) who experienced racial discrimination and/or racial harassment in connection with their military service.

WHO IS INCLUDED?

The proposed settlement covers members and former members of the CAF who experienced racial discrimination and/or racial harassment in connection with their military service at any time from April 17, 1985 (the "**Class Members**").

To be eligible for a payment you must be a member of the Class. The Class is defined as:

All persons who are or have been enrolled as CAF Members at any time from April 17, 1985, and for any duration up to and including the Approval Date, and who assert that they have been subjected to Racial Discrimination and/or Racial Harassment.

The terms of the proposed settlement will be binding on all Class Members, except those who opt out of the Class Action by a specified date.

A hearing to determine if the proposed settlement is fair, reasonable and in the best interests of the Class Members is scheduled to take place in Halifax, Nova Scotia on July 16 and 17, 2024.

WHAT DOES THE SETTLEMENT PROVIDE?

If approved, the proposed settlement provides:

- a) payment for Class Members who experienced racial discrimination and/or racial harassment connected with their military service;
- b) the option to participate in a restorative engagement process for Class Members to communicate their experiences of racial discrimination and/or racial harassment with senior CAF leadership with the assistance of qualified and trained restorative practitioners; and
- c) other systemic relief measures to improve the organizational culture and systems within the CAF with the objective of addressing and eliminating racial discrimination and racial harassment in the CAF.

If the Federal Court approves the proposed settlement, you may make a claim for payment. To do so, you will have to complete a **Claim Form** and send it to the claims administrator during the claims period.

WHAT ARE YOUR LEGAL RIGHTS AND OPTIONS?

1. Do nothing	If you support the proposed settlement, you do not have to do anything right now. Please note that by doing nothing, you will give up any right to object to the settlement and you will give up the right to sue Canada on your own.
2. Opt Out	If the settlement is approved by the Court, and you don't want to be bound by it, you can Opt Out of the class action. You will have 90 days from the date the Court issues an order approving the settlement to make your decision. If you Opt Out, you will not be entitled to any payment from the settlement, but you will keep your right to sue Canada on your own, subject to any time limits or other legal limitations applying to your claim.
3. Submit a statement of support	If you do not wish to attend the hearing, but you wish to explain why you support the proposed settlement, you can complete a Participation Form . This form will include your name, address, and the reasons why you support the settlement. The Participation Form can be found at [insert website] . You must mail, courier or email this Form to the contact information indicated on this Form, and it must be received by no later than June 27, 2024 .

4. Object to the proposed settlement	If you do not wish to attend the hearing, but you want to explain why you object to the proposed settlement, you can complete a Participation Form . This form will include your name, address, and the reasons why you do not support the settlement. The Participation Form can be found at [insert website] . You must mail, courier or email this Form to the contact information indicated on this Form, and it must be received by no later than June 27, 2024 .
5. Participate at the settlement hearing	You can attend the approval hearing in person at the Federal Court on July 16, 2024, at [to be confirmed by the Court] in Halifax, Nova Scotia, commencing at 9:30 a.m. ADT, or by videoconference , to participate in the proceeding and voice your support or objection to the proposed settlement. The Court will decide if you will be permitted to make oral submissions at the time of the hearing. However, in order to be eligible to participate, you must have completed and submitted the participation form setting out your reasons for supporting or objecting to the proposed settlement.

AM I RESPONSIBLE FOR LEGAL FEES?

You are not responsible for payment of legal fees. Class Counsel, the lawyers for the Class, will not be paid until the Federal Court approves the proposed settlement and declares that the proposed legal fees are fair and reasonable.

Class Counsel will ask for approval of fees in the amount of \$5 million, plus repayment of reasonable disbursements and applicable tax. The Federal Court will decide the value of fees and disbursements to award. These amounts will be paid directly by Canada and will not be deducted from any amounts that eligible Class Members may receive.

FURTHER INFORMATION?

Contact Class Counsel by phone, email, or online:

Visit: [\[insert\]](#)

Call: (902) 420-3322

Email: forces.class.action@stewartmckelvey.com

WHAT KIND OF PAYMENT AM I ELIGIBLE FOR?

Your payment will depend on the duration and severity of your experience of racial discrimination and/or racial harassment in connection with your military service. It may also depend on how many Class Members submit claims. The potential range of

individual payment for Class Members is from \$5,000 to \$35,000. The total amount of individual payments to all Class Members cannot exceed \$150 million. The individual payments to Class Members, as assessed by the Independent Assessors, may need to be reduced on a *pro rata* basis so that the total amount of payments to Class Members does not exceed \$150 million.

If the total amount of individual payments to Class Members is less than \$100 million, the individual payments to Class Members may be increased by a maximum of 20%.

SCHEDULE B

Long Form Notice

LEGAL NOTICE

**Have you experienced racial discrimination or
racial harassment in the Canadian Armed
Forces?**

**A proposed class action settlement may affect you.
Please read this notice carefully.**

*The Federal Court has authorized this notice.
This is not a solicitation from a lawyer or a lawsuit against you.*

Your legal rights are affected by a proposed settlement (“**Settlement**”) even if you do nothing. Please read this notice carefully.

While not admitting liability, the Government of Canada has agreed to a proposed Settlement of a class action (“**Class Action**”) for current and former members of the Canadian Armed Forces (“**CAF**”) who experienced racial discrimination and/or racial harassment in connection with their military service.

All current or former CAF members who experienced racial discrimination and/or racial harassment in connection with their military service may be able to receive a payment under the proposed Settlement if it is approved by the Court.

A hearing to determine if the proposed Settlement is fair, reasonable and in the best interests of the Class Members is scheduled to take place before the Federal Court, commencing at 9:30 a.m. ADT on **July 16, 2024**, at **[to be confirmed by the Court]** in Halifax, Nova Scotia, and by videoconference.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT

1. **DO NOTHING:** If you agree with the proposed Settlement, there is nothing more to do. By doing nothing, you give up any right to object to the proposed Settlement.
2. **STATEMENT OF SUPPORT:** If you wish, you may provide a statement of support for the proposed Settlement by completing a Participation Form. The Participation Form is located online at: **[website]**. Class Counsel must receive your completed Participation Form by mail, courier or email on or before **June 27, 2024**. If Class

Counsel do not receive your completed Participation Form on or before June 27, 2024, you will not be entitled to speak to the Court, and the Court will not consider your statement of support at the Settlement Approval hearing.

3. **OBJECT:** If you disagree with the proposed Settlement, you can also file a completed Participation Form. The Participation Form is located online at: [\[website\]](#). Class Counsel must receive your completed Participation Form by mail, courier or email on or before **June 27, 2024**. If Class Counsel do not receive your completed Participation Form on or before June 27, 2024, you will not be entitled to speak to the Court, and the Court will not consider your objection, at the Settlement Approval hearing.
4. **GOING TO THE HEARING:** Anyone is free to attend the Federal Court hearing commencing at 9:30 a.m. ADT on July 16, 2024, at **[to be confirmed by the Court]** in Halifax, Nova Scotia, or by videoconference.

More information is available on Class Counsel's website:

<https://www.stewartmckelvey.com/class/actions/canadian-armed-forces>

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

1. Why did I get this notice?
2. What is a class action?
3. What is this lawsuit about?
4. Why is there a Settlement?

WHO IS INCLUDED IN THE SETTLEMENT?

5. Who is included in the proposed Settlement?

PROPOSED SETTLEMENT BENEFITS?

6. What does the proposed Settlement provide?
7. How will the lawyers be paid?
8. What if I don't want to be included in the lawsuit or Settlement?

THE LAWYERS REPRESENTING YOU

9. Who are Class Counsel, the lawyers for the Class?

MAKING YOUR VIEWS KNOWN

10. How do I tell the Court if I approve of, or object to, the proposed Settlement?

THE APPROVAL HEARING

11. When and where will the court decide whether to approve the proposed Settlement?
12. Do I have to attend the hearing?
13. May I speak at the hearing?
14. What if I do nothing?

BASIC INFORMATION

1. Why did I get this notice?

The Federal Court has authorized this Notice to inform you about the proposed Settlement and your options before the Court decides whether to give final approval to the proposed Settlement. This notice explains the lawsuit, the proposed Settlement, and your legal rights.

2. What is a class action?

In a class action, one or more people called "**Representative Plaintiffs**" sue on behalf of those who have similar claims. All of these people are called a "**Class**" or "**Class Members**." The courts resolve the issues for everyone affected by the class action, except for those who exclude themselves, or "opt out" of, the lawsuit.

3. What is this lawsuit about?

The Class Action relates to CAF members who have experienced racial discrimination and/or racial harassment in connection with their military service. Canada has not admitted liability, however, it has agreed to a proposed Settlement.

4. Why is there a Settlement?

The Plaintiffs and Canada have agreed to a proposed Settlement of the Class Action. The proposed Settlement is not binding unless approved by the Federal Court. By agreeing to settle the lawsuit, the parties avoid the costs, uncertainty, and delay of going to trial and obtaining judgment. In this case, it also means that Class Members will not need to testify in court.

The Representative Plaintiffs and the lawyers for the Class (“**Class Counsel**”) believe the proposed Settlement is fair, reasonable, and in the best interests of the Class.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

5. Who is Included in the proposed Settlement?

The proposed Settlement affects any person who falls under the Class Definition defined as:

All persons who are or have been enrolled as CAF Members at any time from April 17, 1985, and for any duration up to and including the Approval Date, and who assert that they have been subjected to Racial Discrimination and/or Racial Harassment.

PROPOSED SETTLEMENT BENEFITS

6. What does the proposed Settlement provide?

If approved, the proposed settlement provides:

- a) payment for Class Members who experienced racial discrimination and/or racial harassment connected with their military service;
- b) the option to participate in a restorative engagement process for Class Members to communicate their experiences of racial discrimination and/or racial harassment with senior CAF leadership with the assistance of qualified and trained restorative practitioners; and

- c) other systemic relief measures to improve the organizational culture and systems within the CAF with the objective of addressing and eliminating racial discrimination and racial harassment in the CAF.

Individual Payments to Class Members

Category	Payment Level	
<p>Common Experience payment:</p> <p>Class Member confirms that they experienced racial discrimination and/or racial harassment connected with their military service</p>	\$5,000	
<p>Assessment of Narrative Evidence:</p> <p>Class Member chooses to share their experiences of racial discrimination and/or racial harassment connected with their military service. Independent Assessors will determine whether Class Members are entitled to additional payment focused on the duration and severity of impacts on personal dignity, bodily and/or emotional integrity, spiritual well-being and individual relationships.</p>	Level A	\$10,000
	Level B	\$20,000
	Level C	\$30,000

The potential range of individual payments for Class Members is between \$5,000 and \$35,000, subject only to the *pro rata* provisions below.

The total amount of individual payments to all Class Members cannot exceed \$150 million. The individual payments to Class Members, as assessed by the Independent Assessors, may need to be reduced on a *pro rata* basis so that the total amount of payments to Class Members does not exceed \$150 million.

If the total amount of individual payments to Class Members is less than \$100 million, the individual payments to Class Members may be increased by a maximum of 20%.

7. How will the lawyers be paid?

You are not responsible for payment of legal fees. Class Counsel will not be paid until the Federal Court approves the proposed Settlement and declares that the proposed legal fees are fair and reasonable.

Class Counsel will ask for approval of fees in the amount of \$5 million, plus repayment of reasonable disbursements and applicable tax. The Federal Court will decide the value of fees and disbursements to award. These amounts will be paid directly by Canada and will not be deducted from any amounts that eligible Class Members may receive.

8. What if I don't want to be included in the lawsuit or settlement?

If the proposed Settlement is approved, and you do not want to be bound by it, you will have an opportunity to "**Opt Out**" after the Court has decided whether to approve the Settlement. The Parties have agreed that the Opt-Out Period will be 90 days from the Approval Date (the date the Court issues an Order approving the Settlement).

If you Opt Out, you will not be entitled to any payment from the settlement, but you will keep your right to sue Canada or others on your own or bring a Human Rights complaint about the same legal claims in the lawsuit, subject to any time limits or other legal limitations applying to your claim.

You may have already commenced a legal proceeding against Canada for damages resulting from racial harassment or racial discrimination suffered in connection with your military service. If you do not discontinue it on or before the Opt-Out Deadline fixed by the Court when the settlement is approved, you will automatically be deemed to have Opted Out of the settlement.

THE LAWYERS REPRESENTING YOU

9. Who are Class Counsel, the lawyers for the Class?

Class Counsel are the law firm Stewart McKelvey in Halifax, Nova Scotia.

If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense.

MAKING YOUR VIEWS KNOWN

10. How do I tell the Court if I approve of, or object to, the proposed Settlement?

If you agree with the proposed Settlement there is nothing more to do. You may nonetheless provide a statement in support of the Settlement by filing a Participation Form. You may download a Participation Form from [INSERT]. If you do not have access to a computer, you may call (902) 420-3322 and a Participation Form will be mailed to you.

If you object to the proposed Settlement, you may file a Participation Form expressing your objection. You may download a Participation Form from [INSERT]. If you do not have access to a computer, you may call (902) 420-3322 and a Participation Form will be mailed to you.

You can send your completed Participation Form by email to forces.class.action@stewartmckelvey.com or by mail or courier to Forces Class Action, c/o Stewart McKelvey, 600-1741 Lower Water Street, P.O. Box 997, Halifax, Nova Scotia, B3J 2X2. Class Counsel must receive a Participation Form no later than June 27, 2024. If your Participation Form is not received by the deadline, your views will not be conveyed to the Court. Filing a Participation Form does not mean you have opted out of the Class Action.

In your Participation Form, you may ask to speak at the hearing either in person or by videoconference. You may also file a Participation Form without appearing at the hearing. Class counsel will make Participation Forms received on or before June 27, 2024 available to the Court even if you do not appear in person or by videoconference.

THE APPROVAL HEARING

11. When and where will the court decide whether to approve the proposed Settlement?

The Federal Court will hold a hearing commencing at 9:30 a.m. ADT on **July 16, 2024**, at **[to be confirmed by the Court]** in Halifax, Nova Scotia to decide whether to approve the proposed Settlement and Class Counsel's request for legal fees and disbursements. You may attend the hearing in person or by videoconference and ask to speak, but attendance is not required. If you intend to object to the Settlement, Class Counsel must receive your completed Participation Form by the June 27, 2024 deadline.

There will be a videoconference link allowing you to watch the Settlement Approval hearing online. If the hearing is re-scheduled, the videoconference link may be changed. If you intend to participate by videoconference, it is a good idea to check **[website]** the day before the hearing to make sure you have the correct link.

12. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. If you wish to observe, you are welcome to attend the hearing in person or by videoconference. You may also have your own lawyer attend at your expense, but attendance is not necessary.

13. May I speak at the hearing?

You may ask the Court for permission to speak at the approval hearing. To be entitled to speak at the hearing, your Participation Form must be received by the June 27, 2024 deadline and indicate that you wish to speak to the Court at the approval hearing.

14. What if I do nothing?

If you do nothing, you are choosing, by default, not to object to the proposed Settlement. The Settlement Approval hearing will proceed and the Federal Court will consider whether the Settlement is fair, reasonable, and in the best interests of the Class, and whether Class Counsel's fees should be approved, without considering your views. If you agree with the Settlement, nothing further is required.

GETTING MORE INFORMATION

This notice summarizes the proposed Settlement. To speak with Class Counsel, please obtain details at [insert address] send an email to forces.class.action@stewartmckelvey.com or call (902) 420-3322.

SCHEDULE C

NOTICE PLAN

For distribution of the Notice Forms (Short-Form and Long-Form) and related information about the Settlement Approval Motion:

Canada

Canada will:

- distribute the Notice Forms to the following locations, along with a post on National Defence – Canada.ca
 - The Maple Leaf (DND/CAF newspaper)
 - Defence Team news email
 - All Base and Wing Newspapers
 - Base, Wing and Unit Routine Orders (CANFORGEN)
 - CAF units and DND buildings and facilities
 - CAF Health Services clinics
 - Conflict and Complaint Management Services Centers across Canada

- post the Notice Forms or a link to the Notice Forms on the following websites:
 - National Defence – Canada.ca
 - CAF / Defence intranet page and subpages
 - Veterans Affairs Canada webpage, and My VAC Account webpage

- post a link to the Notice Forms on the following the social media channels:
 - National Defence X (Twitter) page: @NationalDefence
 - CAF X (Twitter) page: @CanadianForces
 - CAF Facebook Page: @Canadian Forces

- 2 -

- post the Notice Forms or a link to the Notice Forms on the following mobile apps:
 - CAF mobile app
 - VAC mobile app

Class Counsel

Class Counsel will:

- post the Notice Forms on the Stewart McKelvey website:
https://www.stewartmckelvey.com/class_actions/canadian-armed-forces/
- deliver the Notice Forms to all known Class Members, who have already provided their contact information to Class Counsel
- deliver the Notice Forms to multiple veterans' organizations, including:
 - Royal Canadian Legion: <https://www.legion.ca/home>
 - Soldier On: <https://www.soldieron.ca/>
 - Veterans Transition Network: <https://vtncanada.org/>
 - Canadian Forces Morale and Welfare Services: <https://cfmws.ca/>
 - VETS Canada: <https://vetscanada.org/>
 - Wounded Warriors Canada: <https://woundedwarriors.ca/>
- arrange for publication of the Short-Form Notice, or an agreed-upon short form bulletin, in the following veterans' publications (either in print or electronically):
 - Legion Magazine: <https://legionmagazine.com/>
 - Esprit de Corps: <https://www.espritdecorps.ca/>
 - Canadian Military Family Magazine: <https://www.cmfmag.ca/>

- 3 -

Class Counsel will also engage the following services of NATIONAL Public Relations:

- NATIONAL will facilitate the creation of a dedicated website (with a user-friendly web address), where the proposed Notice Forms and other relevant materials will be posted in both English and French.
 - This website will also provide information for how individuals can contact Class Counsel (Stewart McKelvey) with questions or requests for further information.
 - This website address will be included in all other methods of distribution, and the Stewart McKelvey website (referred to above) will also be updated with direction to this dedicated website.

- NATIONAL will issue a press release in both English and French, with a summary of information contained in the proposed Notice Forms and with direction to the dedicated website, for distribution to targeted publications with appropriate reach across the country.

- NATIONAL will provide the press release and related details to traditional media and reporters, who have a wide reach and have previously reported on issues related to racism in the Canadian Armed Forces.
 - This would include: Brett Forester (APTN); Matthew Byard (Local Journalism Initiative/Halifax Examiner); Preston Mulligan (CBC); Robert Fife (Globe & Mail); and Mercedes Stephenson (Global News).
 - Additional earned media activity is also expected to stem from these actions, so to further support the spread of information surrounding the class action and settlement.

- NATIONAL will arrange for paid search and electronic media / social media advertising, which will provide a short form bulletin and links to the dedicated website.
 - This will include: (a) advertising on search engines (Google) and social media platforms (Facebook and Instagram); (b) advertising in a digital edition of the Globe & Mail (English); National Post (English); La Presse (French); and Le Devoir (French).

SCHEDULE D

PARTICIPATION FORM

**THIS IS NOT A CLAIM FORM
THIS FORM IS OPTIONAL**

RE: CAF Racial Discrimination and Racial Harassment Class Action

My name is _____.

My date of birth is _____.

For the reasons stated below, I (please specify):

(If objecting)

Object to the Settlement terms.

Object to the proposed fees and disbursements of Class Counsel.

(If supporting)

Support the Settlement terms and the proposed fees and disbursements of Class Counsel.

Class Members who wish to be entitled to have their views considered as part of the Settlement Approval Hearing must ensure this Participation Form is completed and received **by no later than June 27, 2024**: via email to forces.class.action@stewartmckelvey.com or by mail or courier to Forces Class Action, c/o Stewart McKelvey, 600-1741 Lower Water Street, P.O. Box 997, Halifax, Nova Scotia, B3J 2X2.

I (support/object to) the Settlement/fees for the following reasons (please attach extra pages if you require more space):

Check all that apply:

- I have enclosed copies of documentation supporting my views.
- I have **NOT** enclosed documentation supporting my views, and I do not intend to provide any.
- I intend to appear, in person or by counsel at my expense, and to make submissions at the Settlement Approval hearing scheduled for July 16 and 17, 2024.
- I intend to appear by videoconference and to make submissions at the hearing.
- I do **NOT** intend to appear in person or by videoconference at the hearing of the motion to approve the Settlement, and I understand that my views will be filed with the Court before the hearing of the Settlement Approval motion.

MY ADDRESS FOR SERVICE IS:

MY LAWYER'S ADDRESS FOR SERVICE IS (if applicable, but you do not need a lawyer to object):

Name:

Name:

Address:

Address:

Tel.:

Tel.:

Fax:

Fax:

Email:

Email:

Date: _____ **Signature:** _____

THIS IS NOT A CLAIM FORM
THIS FORM IS OPTIONAL

COUR FÉDÉRALE

AVOCATS INSCRITS AU DOSSIER

DOSSIER : T-2158-16

INTITULÉ : FRENETTE ET AL c LE PROCUREUR GÉNÉRAL DU CANADA

LIEU DE L'AUDIENCE : HALIFAX (NOUVELLE-ÉCOSSE)

DATE DE L'AUDIENCE : LE 20 MARS 2024

ORDONNANCE ET MOTIFS : LA JUGE MCDONALD

DATE DES MOTIFS : LE 2 AVRIL 2024

COMPARUTIONS :

Scott R. Campbell
Christopher W. Madill

POUR LES DEMANDEURS

Angela Green
Victor Ryan

POUR LE DÉFENDEUR

AVOCATS INSCRITS AU DOSSIER :

STEWART McKELVEY
Halifax (Nouvelle-Écosse)

POUR LES DEMANDEURS

Procureur général du Canada
Halifax (Nouvelle-Écosse)

POUR LE DÉFENDEUR