

Federal Court



Cour fédérale

Date: 20240402

Docket: T-2158-16

Citation: 2024 FC 505

Ottawa, Ontario, April 2, 2024

PRESENT: Madam Justice McDonald

PROPOSED CLASS PROCEEDING

BETWEEN:

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

Plaintiffs

and

ATTORNEY GENERAL OF CANADA

Defendant

ORDER AND REASONS

[1] On this Motion, the parties seek Court approval of a Notice Plan intended to communicate the proposed settlement of this class proceeding to potential class members.

[2] This class proceeding relates to racial discrimination and racial harassment within the Canadian Armed Forces (CAF). The parties have agreed to the terms of a proposed settlement of this class proceeding and must now communicate the terms of that settlement to individuals who would be covered by the proposed class member definition.

I. Relevant Background

[3] The Statement of Claim was filed on December 14, 2016. The parties have been engaged in settlement discussions and on August 29, 2019, they reached the framework of an agreement to settle this proceeding. The final terms of the Settlement Agreement are still being finalized.

[4] The Settlement Agreement proposes the following definition as “Class Members”:

All persons who are or who 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.

[5] The proposed settlement includes individual compensation for class members (Monetary Assessment Scheme) as well as internal CAF measures (Systemic Relief Measures) designed to address and correct internal systemic issues.

[6] Pursuant to Rules 334.34 and 334.37 of the *Federal Court Rules*, SOR/98-106 [*Rules*] the Court must approve the plan for disseminating notice to potential class members of the proposed settlement. The parties propose a notice program that includes Short Form Notice and a Long Form Notice [Notice Plan] to provide the necessary notice to the class members, including:

- (a) the terms of the proposed settlement of this proceeding;

- (b) the hearing dates for the Motion to certify the proceeding as a class proceeding, to determine if the proposed settlement is fair, reasonable, and in the best interests of the class, and, to approve Class Counsel fees [Settlement Approval Motion]; and
- (c) the July 16 and 17, 2024 hearing dates for the Settlement Approval Motion.

II. Relief sought on this Motion

[7] The Plaintiffs, with the Defendant's consent, request an Order:

- (a) to approve the form and contents of the Notice Forms; and
- (b) to approve the Notice Plan.

[8] In support of this Motion, Class Counsel filed the Affidavit of Lydia S. Bugden, K.C. affirmed on March 12, 2024. Ms. Bugden is the Chief Executive Officer and Managing Partner of Stewart McKelvey, who are Class Counsel on this matter.

III. Analysis

[9] The Notice requirement is outlined in Rule 334.34 and Rule 334.37 as follows:

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.

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.

...

334.37 Notices referred to in rules 334.32 to 334.35 shall be given unless they have been approved by a judge.

...

334.37 Tout avis prévu aux règles 334.32 à 334.35 doit être approuvé par un juge avant d'être communiqué.

[10] The notice stage is indispensable as it informs class members about their rights, particularly the possibility of opting out, and sometimes about the settlement of a case (*Canada Post Corp v Lépine*, 2009 SCC 16 at para 42; *Wenham v Canada (Attorney General)*, 2019 FC 383 at paras 10-11).

[11] The content of the notice must be “sufficiently transparent, informative and adequate disclosure” so that class members can make a well-informed decision about whether to support, opt-out or object to the Settlement Agreement (*Lin v Airbnb, Inc*, 2021 FC 1260 at paras 54 and 55 [*Airbnb*]).

[12] Here, the Notice Plan advises of the total settlement amount of \$150 million. It explains the range of settlement funds available for individual payments for each class member as being between \$5,000 to a maximum of \$35,000. It addresses the potential of a *pro rata* decrease or increase in the individual payments depending upon the size of the class.

[13] Legal fees for Class Counsel are proposed at \$5 million plus disbursements and tax. Legal fees will be paid separately and will not be deducted from the \$150 million settlement funds. This is an important feature of the proposed settlement as legal fees will not deplete the settlement funds available to class members.

[14] The Short Form Notice has a “Legal Rights and Options” section which includes the options to Class Members: (1) do nothing; (2) opt out; (3) submit a statement of support; (4) object to the proposed settlement; or (5) participate at the settlement hearing. The Long Form Notice contains the same information with additional detail on these rights and options.

[15] The Plaintiffs and Defendant share responsibilities to disseminate Notices. The Defendant will oversee delivery of the proposed Notice Forms to existing Class Members of the CAF and recipients of Veterans Affairs Canada benefits via social media, intranet, accounts websites, and mobile applications. Class Counsel will post the Notice Forms to their website, deliver them to all known Class Members, deliver them to multiple veterans’ organizations and arrange for publication of the Short Form Notice in three veterans’ publications.

[16] Class Counsel has retained a public relations firm, NATIONAL, to facilitate creating a dedicated website, issue media releases and leverage earned media opportunities, and conduct targeted advertising and digital newspaper advertising in English and French.

[17] I find the proposed Notice Plan accomplishes the overarching purpose of notice, which is to ensure Class Members understand their rights and options and will be able to make informed decisions about what to do regarding the settlement approval process.

[18] Accordingly, I will grant this Motion on the terms requested by the parties.

ORDER IN T-2158-16

THIS COURT ORDERS that:

1. The short and long form notices of the Settlement Approval hearing are hereby approved in the forms attached respectively at Schedule A and Schedule B to this Order (the “Notice Forms”), subject to the right of the parties to make non-material amendments as may be necessary or appropriate.
2. The parties shall arrange for translation of the Notice Forms into French, prior to distribution.
3. The parties shall distribute the Notices in accordance with the “Notice Plan” attached at Schedule C to this Order, and shall do so by no later than May 1, 2024.
4. The Notice Plan satisfies the requirements of Rules 334.34, 334.35, 334.36 and 334.37 of the Federal Courts Rules and shall constitute good and sufficient notice to Class Members about the Settlement Approval hearing.
5. The parties shall have the right to make non-material amendments to the Notice Plan as may be necessary or appropriate.
6. If a Class Member wishes to participate at the Settlement Approval hearing, either to support or object to the proposed settlement and/or the amount of Class Counsel fees and disbursements, the Class Member shall complete a “Participation Form” substantially in the form attached at Schedule D to this Order. The Class Member shall deliver the completed Participation Form to Class Counsel by mail, courier or email according to the contact information indicated

on the Participation Form, and ensure that Class Counsel receive the Participation Form by no later than June 27, 2024 (the “Participation Deadline”).

7. At the Settlement Approval hearing, the Court shall not consider, without leave, any Participation Forms received by Class Counsel after the Participation Deadline.
8. Class Counsel shall serve on the Defendant and file, by July 5, 2024, an affidavit including copies of all Participation Forms received by Class Counsel by the Participation Deadline.

"Ann Marie McDonald"

Judge

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	
Common Experience payment: Class Member confirms that they experienced racial discrimination and/or racial harassment connected with their military service		\$5,000
Assessment of Narrative Evidence: 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.	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?

7

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

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-2158-16

STYLE OF CAUSE: FRENETTE ET AL V ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HALIFAX, NOVA SCOTIA

DATE OF HEARING: MARCH 20, 2024

ORDER AND REASONS: MCDONALD J.

DATED: APRIL 2, 2024

APPEARANCES:

Scott R. Campbell
Christopher W. Madill

FOR THE PLAINTIFFS

Angela Green
Victor Ryan

FOR THE DEFENDANT

SOLICITORS OF RECORD:

STEWART McKELVEY
Halifax, Nova Scotia

FOR THE PLAINTIFFS

Attorney General of Canada
Halifax, Nova Scotia

FOR THE DEFENDANT