

**FORM 171ARule 171
Statement of Claim**

ACTION

(Court File No.)

FEDERAL COURT

BETWEEN:

**MEGAN CAFIK-GECZY
Plaintiff**

and

**Canada (Attorney General)
Defendant**

(Court seal)

Statement of Claim

TO THE DEFENDANT:

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 defence in Form 171B prescribed by the [Federal
Courts Rules](#), serve it on the plaintiff's solicitor or, if 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 the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the [Federal Courts Rules](#).

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

(Date)

Issued by:

(Registry Officer)
Address of local office:

45 Main Street East
Hamilton, ON
L8N 2B7

TO: Office of the Deputy Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

AND TO: Department of National Defence
200 James St N
Hamilton, ON
L8R 2L1

AND TO: **THIS HONOURABLE COURT**

Claim

1. The Plaintiff, **Megan Cafik-Geczy** claims against the Defendant, Attorney General of Canada and the Department of National Defence, as follows:
 - (a) Damages in the amount of \$100,000 for Negligence, Negligent misrepresentation, Breach of Contract and breach of Defendant's obligation to act in good faith, with integrity and honesty.
 - (b) Punitive and aggravated damages in the amount fo \$100,000.
 - (c) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended;
 - (d) Costs of this action on a substantial indemnity scale basis, together with applicable taxes; and
 - (e) Such further and other relief as this Honourable Court may deem just;

THE PARTIES

2. The Plaintiff, Megan Cafik-Geczy, (hereinafter referred to as “**Ms. Cafik-Geczy**”) was at all material times a resident of City of Hamilton, in the Province of Ontario and an employee as a cadet officer in the Department of National Defence.
3. The Attorney General of Canada and the Department of National Defence was at all material times, the employer of Ms. Cafik-Geczy.

BACKGROUND

4. Ms. Cafik-Geczy was a member of Royal Canadian Army Cadet Corps when she was diagnosed with severe scoliosis of the spine in June, 2009.
5. The cause of the spinal scoliosis was an accident that happened during her regular training while serving as a cadet in the royal Canadian Army Cadet Corps.
6. One day as part of the training, Ms. Cafik-Geczy was running on a hurdle track, when she was unable to jump over one of the hurdle bars, lost her balance and fell on the ground with her back on the ground.

7. Ms. Cafik- Geczy was immediately brought to the hospital.
8. In June 2009, she was diagnosed with severe scoliosis of the spine during her routine checkup.
9. Ms. Cafik-Geczy continued in her regular duties as a cadet at the Royal Canadian Army Cadet Corps until November, 2009 while suffering with scoliosis.
10. In November, 2009 Ms. Cafik-Geczy underwent surgery for her scoliosis.
11. During her surgery, it was found that her condition was aggravated since her first diagnosis in June, 2009 as her curvature of the spine was increased from 75 degrees to 90 degrees.
12. After her surgery, Ms. Cafik-Geczy continued as a Cadet at Royal Canadian Army with her regular duties and she was given no modified duties due to her physical illness until 2012.
13. In 2016, Ms. Cafik-Geczy was hired as an Officer Cadet in the Royal Canadian Army and was sent to basic training at Canadian Forces Base (CFB) in the City of Borden, in province of Ontario.
14. Ms. Cafik-Geczy served as an officer cadet at CFB Borden in summer of 2017.
15. In 2018, Ms. Cafik-Geczy's civilian employment with Cadet Corps was refused stating that her mental health condition is not stable and fit for service.
16. Ms. Cafik-Geczy believes the actual reason to be her termination from Cadet corps to be her physical disability rather than mental illness.
17. On November 12, 2019, Ms. Cafik-Geczy applied to Veterans Affairs Canada (hereinafter referred to as "VAC") to obtain pension benefits under the VAC which are available to the veterans.
18. On November 28, 2019, VAC responded to the pension application by stating that Ms. Cafik-Geczy's application could not be processed because VAC and Department of National Defence could not find Ms. Cafik-Geczy's service record.
19. Ms. Cafik-Geczy provided a copy and proof of service as a cadet and an officer cadet at the Department of National Defence to VAC but VAC refused to acknowledge it and refused to accept the application for the pension benefits.

NEGLIGENCE AND NEGLIGENCE MISREPRESENTATION

20. The Defendants owed a duty of reasonable care towards Ms. Cafik-Geczy to preserve the service record of Ms. Cafik-Geczy.
21. The Department of National Defence breached the reasonable care of duty by:
- i. Failing to properly preserve the service record of Ms. Cafik-Geczy.
 - ii. Failing to provide a copy of the service record when asked by VAC.
 - iii. Failing to investigate and locate the lost service records of Ms. Cafik-Geczy.
22. The VAC breached their reasonable care of duty by:
- a. Failing to properly locate the service record of Ms. Cafik-Geczy
 - b. Failing to acknowledge the proof of service provided by Ms. Cafik-Geczy to accept the application and to do diligent search of the service records.
 - c. Failing to issue the pension and/or a disability award based on the application of Ms. Cafik-Geczy
23. The defendants were negligent in their duties to do diligent search in locating the record of Ms. Cafik-Geczy.
24. The Defendants, were in all circumstances incompetent in discharge of their fiduciary duties and obligations as an employer of Ms. Cafik-Geczy.
25. Due to the negligence of the department of National Defence, Ms. Cafik-Geczy is unable to avail the benefits of VAC.

BREACH OF CONTRACT

26. According to *Canadian Forces Members and veterans Re-establishment and Compensation Act, SC 2005, c 21*, a member of the Canadian armed forces or a veteran is entitled to receive a disability award who establishes that they are suffering from a disability resulting from:
- a. A service-related injury or illness; or

- b. A non-service related injury or disease which was aggravated by service;
- 27. The Defendants breached their contract by not paying any disability award to Ms. Cafik-Geczy as per the act mentioned above;
- 28. The Defendants also breached their contract by failing to provide the pension to Ms. Cafik-Geczy under *Veterans Review and Appeal Board Act, SC 1995, c 18*

PHYSICAL, EMOTIONAL AND PSYCHOLOGICAL DAMAGE

- 29. Ms. Cafik-Geczy suffered trauma resulting in unnecessary increased emotional stress, heightened anxiety, additional depression, anger, loss of sleep, victimization, and increased physical pain.
- 30. Ms. Cafik-Geczy suffered physical, emotional and psychological damages due to the refusal of VAC pension benefits and inability to apply for Department of National Defence pension due to refusal to allow process of VAC benefits.
- 31. Ms. Cafik-Geczy was unable to receive physiotherapy treatments due to the inability to receive pension.
- 32. Ms. Cafik-Geczy is unable to do regular household chores due to her medical condition.
- 33. Ms. Cafik-Geczy is unable to lift, run, walk for longer periods due to her constantly deteriorating condition.
- 34. Ms. Cafik-Geczy suffered from lack of sleep, anxiety, fatigue, lack of concentration due to inability to receive pension.
- 35. Ms. Cafik-Geczy's medical condition is constantly deteriorating due to inability to receive pension.

LOSS OF JOB AND FINANCIAL OPPORTUNITIES

- 36. Ms. Geczy is unable to work for longer hours, could not work for more than three days a week and could not work longer than 5-6 hours a day due to her medical condition.
- 37. Ms. Geczy is unable to get her rehabilitation and physiotherapy, her physical condition has deteriorated and she has developed secondary issues.

STATUTORY NEGLIGENCE

38. The Defendants negligently performed their administrative duties.

39. The Defendants with an intent to deceive, suppresses, defaced, altered or made away with the service record of Ms. Cafik-Geczy, made or issued for military or departmental purpose.

40. The Plaintiffs pleads and rely on the provisions:

- a. *National Defence Act (R.S.C., 1985, c. N-5)*
- b. *Crown Liability and Proceedings Act (R.S.C., 1985, c. C-50)*
- c. *Negligence Act, R.S.O. 1990, c. N-1.*
- d. *Veterans Review and Appeal Board Act, SC 1995, c 18*
- e. *Canadian Forces Members and veterans Re-establishment and Compensation Act, SC 2005, c 21*

41. The Plaintiff proposes that trial be held in the City of Hamilton, in the Province of Ontario.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated: July 15, 2022

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