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T-1828-23

FORM 301 Rule 301
Notice of Application

FEDERAL COURT COUR FÉDÉRALE	
FILED	SEP 01 2023
M. KOWALCHUK	
HALIFAX, NS	/
DEPOSEE	

2023

Federal Court of Canada (Halifax, Nova Scotia)

Between:

Maurice Carvery

(Applicant)

- And -

Royal Canadian Mounted Police (RCMP)

(Respondent)

Canadian Human Rights Commission (CHRC)

(Commission)

National Police Federation (NPF)

(Respondent)

Notice of Application

TO THE RESPONDENT: Royal Canadian Mounted Police (RCMP)

Canadian Human Rights Commission (CHRC)

National Police Federation (NPF)

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *(place where Federal Court of Appeal (or Federal Court) In Halifax, Nova Scotia, Canada)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the Federal

Courts Rules and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

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 OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

ORIGINAL SIGNED BY
MICHAEL KOWALCHUK
ORIGINAL SIGNÉ PAR

11 September, 2023

15
MS

Issued by: (Registry Officer)

Address of local office:

TO: Royal Canadian Mounted Police (RCMP)

73 Leikin Dr.

Ottawa, ON K1A 0R2

Canadian Human Rights Commission (CHRC)

National Police Federation (NPF)

Brian Sauve, President

220 Laurier Ave., W

Ottawa, ON K1P 5Z9

Canadian Human Rights Commission

Ms. Holly Holtman, Director General Counsel

344 Slater St. 8th Floor,

Ottawa, ON K1A 1E1

Simon Deneau, Counsel for the Respondent (DOJ)

219 Laurier Avenue West, 6th Floor

Ottawa, K1A 0R5

Chris Roothman, Counsel for Nelligan Law

Federal Court
1720-1801 Hollis Street
Halifax, NS B3J 3N4

Robert C.

50 O'Connor Street,
#300, Ottawa, ON K1P 6L2

Canadian Human Rights Commission
Christine Singh, Counsel
344 Slater St. 8th Floor,
Ottawa, ON K1A 1E1

Ms. Sarah Drodge, Counsel for the Respondent (DOJ)
Duke Tower
5251 Duke Street, Suite 1400
B3J 1P3

Royal Canadian Mounted Police
Commanding Officer "H" Division
c/o Denis Daley
80 Garland Ave,
Dartmouth, NS B3B 0E8

Maurice Carvery

Dated this 1st Day of September, 2023

Court File No. T-1828-23

Federal Court

Notice of Motion

Enforcement of

Minutes of Settlement

Between:

Maurice Carvery Plaintiff

-and-

Royal Canadian Mounted Police (RCMP) Respondent

Canadian Human Rights Commission (CHRC) Commission

National Police Federation (NPF) Brian Sauve NPF

Chris Roothman, Snr. Counsel Nelligan LawLegal Counsel

Representing NPF

Director General Legal Counsel (CHRC) Commission

Holly Holtman

Christine Singh, Counsel (CHRC) Commission

Brian Smith, Snr. Counsel (CHRC)	Commission
Simon Deneau, Counsel for the (DOJ)	Respondent
Sarah Drodge, Snr. Counsel for the (DOJ)	Respondent

STATEMENT OF Filed the _____ day of September, 2023

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by this 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 as prescribed by the Federal Courts Rules, serve it on the Plaintiffs' solicitor or, where the Plaintiff do not have a solicitor, serve it on the Plaintiff, and file it, with proof of service, at a local office of this Court, **WITHIN TEN 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 of serving and filling your Statement of Defence is prescribed in the Federal Court Rules.

Copies of the Federal Court 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 officer thereof.

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

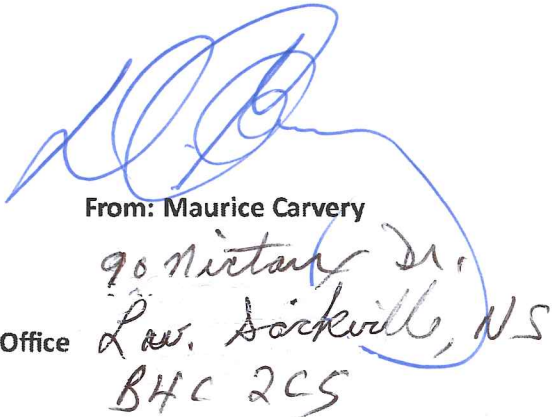
DATED at Halifax, Nova Scotia, this _____ day of September, 2023.

Issued by: _____

Registry Office

Address of Local Office: 1801 Hollis Street

Halifax, NS B3J 3N4



From: Maurice Carvery
90 Victoria Dr.
Law, Sackville, NS
B4C 2C5

TO: Attorney General of Canada

c/o Deputy Attorney General of Canada

Department of Justice Canada, Atlantic Regional Office
Halifax, NS B3V 1C1

Suite 1400, Duke Tower

5251 Duke Street

Halifax, NS B3J 1P3

Canadian Human Rights Commission

c/o Ms. Holly Holtman, Director General Legal Counsel

344 Slater St. 8th Floor

Ottawa, ON K1A 1E1

Mr. Chris Rootham, Legal Counsel Nelligan Law

50 R. O'Connor Street

#300, Ottawa, ON K1P 6L2

Mr. Brian Sauve, President NPF

220 Laurier Ave., W

Ottawa, ON K1P 5Z9

Royal Canadian Mounted Police (RCMP)

c/o Commissioner Commanding Officer "H" Division Mr. Denis Daley
80 Garland Ave,
Dartmouth, NS

CLAIM

INTRODUCTION

1. When Lawyers enter into Minutes of Settlement, they do so honourably and it is expected that "all" parties come to the table with "**pristine hands**". This is essentially and fundamentally what this process requires and is expected of all parties who participate. Fundamental justice, due process, and the essential right to voluntarily enter into the Canadian Human Right Commission Tribunal (Hearing) as a consequence of suffering Anti-Black Racism, Systemic Racism, Institutional Discrimination and cronyism that resulted in my **Clinical Diagnosis of Complex Post Traumatic Stress Disorder (C-PTSD)** as a direct consequence of being targeted by "Senior" RCMP Staff Officers.
2. This is what is described prior to entering into this process, that we all be respectful, courteous, considerate, and that if a "Settlement" is achieved, that all parties respect the Minutes of Settlement (MOS) drafted "together" and that we "all" read, pose any questions or concerns we may have, and finally, that the MOS once approved by the Commission are in stone. But regrettably, the Respondent, the Commission, the National Police Federation (NPF) and their hired legal counsels blatantly failed to "monitor or enforce" the MOS in this particular case.
3. This Action concerns Systemic Racism, Anti-Black Racism, Institutional Discrimination and Cronyism from the top of the RCMP, the Director General of the Commission and the President of NPF.
4. In the result, the Honour of the Commission, the RCMP, NPF and its lawyers have been tarnished. This has resulted in re-triggering and re-traumatization of my already exacerbated condition of C-PTSD and undue financial hardship in not being provided with the RCMP Physician "Assistance" to get my Canada Life Benefits in over a year now.
5. Mr. Rubin A. Coward, CD Community Advocate has sent numerous emails imploring the Commission to follow their mandate, policy and procedures contained in the MOS at Clauses 5, 8, and 9 which state the following:

5) Within thirty (30) days of the Respondent having paid the sum as required by clause 2 of this agreement, the Complainant will confirm to the Respondent that he has withdrawn all outstanding complaints, grievances, and appeals including, but not limited to all grievances no. 202133519, 20223535 and 202233564 and subsequent appeals that he has filed with the RCMP;

8) The Complainant acknowledges that execution of this settlement is confirmation that the proceedings will be discontinued in relation to human rights complaints (20180505, 20200693 and 20210857) and as a result, the Commission will close its files "subject to any ENFORCEMENT AND/OR MONITORING; and

9) The Complainant and Respondent agree that this "Settlement is entered into without prejudice to either party" and without any admission of liability or wrongdoing on the part of the Respondent with respect to the allegations in the complaints. The parties further agree that this settlement does not constitute precedent.

6. I would humbly submit that Clause 9 no longer can be propositioned in that same light, given all that has not been honoured or done since that signing of MOS on 18 July, 2022. I will submit that the "breach" of MOS and the Contempt pursuant to Federal Court Rules 466 – 472, displayed by all parties has caused me considerable harm, trauma, depression, stress and bouts of anger. This harm can be said to be Systemic Institutional extortion and a continuous state of learned helplessness.

7. Instead of the Commission, NPF hired legal counsel and the Respondent's counsel honouring the MOS, they all "doubled-down" and would not furnished a RMCP Physician as per the MOS; hence, I was unable hitherto to obtain my Canada Life Benefits. In large part because the Commission would not enforce the "Breach" of MOS or the Contempt notwithstanding their Senior Legal Counsel, Mr. Brian Smith identified these acts in an email to Mr. Coward and I in an email dated 13 June, 2023 9:40pm, Tuesday. And, Mr. Coward has referenced the "Breach" of MOS as far back as October 7th of 2022 – to all parties and no avail.

8. The failure for the Commission to Enforce and Monitor their "Approved MOS" from 5 August, 2022 until now has caused my family and I undue financial hardship, me many sleepless nights, re-triggering and re-traumatization, stress, depression and outburst of anger. For these reason, this brings me to Federal Court Rules 466 – 472 wherein, I am requesting that you incarcerate the lot of these lawyers who failed to fulfill their obligations respecting the MOS.

Pursuant to Federal Court Rules 48.3, I request that this Honourable Court make an Order compelling of the delinquent parties to Honour the MOS, their positions within these institutions; and, most importantly, however – the Law.

9. And the relief claimed by the Plaintiff is that I be compensated for the protracted and “extortion” of Minutes of Settlement; Systemic and Institutional “extortion” that originates from a “A continuous state of learned helplessness” – wherein, should I not “now” agree to the “unreasonable” terms and conditions set forth by NPF, the Commission and the Respondent, they can starve my family and I through this unlawful and illegal process and practice.

Accordingly, “all” Counsel’s that participated in this be jailed until such time as the MOS “Breach” and the “Contempt” I assert has taken place that has caused me undue financial hard-ship be corrected.

Accordingly, and pursuant to the jurisprudence I have identified herein, I am requesting \$50,000.00 for the pain/suffering, re-triggering and re-traumatization I sustained by virtue of the Complex PTSD (C-PTSD) I occasioned due to this continued Anti-Black Racism, Systemic Racism, Institutional Discrimination and cronyism being practiced against me. Please find enclosed a copy of the letter from Dr. Nancy Barlett dated 5 June, 2023 explains.

I was diagnosed by three Clinical Counselling Therapists who all arrived at the same conclusion – C-PTSD from the targeting and Systemic Racism I was subjected to by Senior RCMP Staff Officers. I am requesting \$25,000 for Mr. Rubin A. Coward, CD Community Advocate for his tireless work in trying to get all parties to co-operate in this matter, including the Director General of the Commission’s Legal Counsel, Ms. Holly Holtman.

The grounds to be argued are set forth hereto:

This Application is A Notice of Motion to Enforce the Minutes of Settlement approved by the Canadian Human Rights Commission and dated 5 August, 2022. The Commissions files are as follows:

20180505, 20200693 and 20210857 that capture the Complainants issues. CHRT Files: HR-DP-2778-22, HR-DP-2779-22, and HR-DP-2780-22.

A copy of the MOS are attached as Annex A. Clause 5,8 AND 9 of the MOS states the following:

5) Within thirty (30) days of the Respondent having paid the sum as required by clause 2 of this agreement, the Complainant will confirm to the Respondent that he has withdrawn all outstanding

Complaints, grievances, and appeals including, but not limited to all grievances no. 202133519, 20223535 and 202233564 and subsequent appeals that he has filed with the RCMP.

8) The Complainant acknowledges that execution of this settlement is confirmation that the proceedings will be discontinued in relation to human rights complaints (20180505, 20200693 and 20210857) and as a result, the Commission will close its files “subject” to any ENFORCEMENT AND/OR MONITORING.

9) The Complainant and Respondent agree that this “settlement is entered into without prejudice to either party” and without any admission of liability or wrongdoing on the part of the Respondent

with respect to the allegations in the complaints. The parties further agree that this settlement does not constitute precedent.

Section 48.3 of the Commission’s Act, the MOS, Rule 49.09 of the Rules of Civil Procedure, the Honourable retired Justice Michel Bastarache’s Report from Broken Promises and Broken Dreams in Merlo/Davidson v. RCMP wherein he makes the following comments:

“What I learned led me to conclude that a “toxic culture” prevails in the RCMP. This culture encourages, or at least tolerates, misogynistic, racist, and homophobic attitudes among many members of the RCMP.

The problem is systemic in nature and cannot be corrected solely by punished a few “bad apples”.

Justice Bastarache notes that the problems faced by women in the RCMP have been known to the RCMP and the Government for at least three decades. Both the multiple legal proceedings seeking damages for sexual harassment against the RCMP and numerous reports issued in the past 30 years have highlighted issues of harassment and discrimination in the RCMP workplace...”

I therefore humbly ask the honourable Court to draw and inference from the foregoing inter alia and Scherer v. Paletta [4] which states that the Authority of a solicitor to enter into settlement discussions and comprise a client’s position is well-settled in law...

I find that the settlement agreement as evidenced in the correspondence between the lawyers for the parties demonstrates a mutual intention to create a legally binding relationship and there was agreement on all essential terms of the settlement. [5] The

court also considered that a failure to “enforce” settlement agreements duly entered into by lawyers would be contrary to both the Court and Public Policy of encouraging settlement and would result in chaos in the settlement process. [6] In considering whether the agreement should be enforced, the Court applied the five factors listed in *IL-Jalco Holdings v. Lawrynowicz & Associates*. [8] to the facts of this matter and favoured Enforcing the Minutes, as the offer and acceptance were clear as evidenced in the email correspondence between counsel for the parties, there was no mistake in drafting the Minutes,

There was no prejudice to the Respondent in enforcing the Minutes, and the settlement was reasonable and brought an end of five years of litigation. Cost were awarded against the Respondent.

10. The following will be accompanying the Motion: Application, Affidavits from me, documentary exhibits, an email train between myself, Mr. Rubin A. Coward, CD Community Advocate (who represented me over the 5 years period to date), the Commission, the Respondent, National Police Federation, and their hired legal Counsels. An order of Writ of Mandamus will be forwarded requesting the Honourable Court allow Mr. Coward, CD to continue in his stalwart efforts to date representing me that have yielded me this significant victory over Systemic Racism and Anti-Black Racism by these institutions named herein.

11. To solicit the honourable Court that Mr. Coward, CD continue to do so notwithstanding he is not a lawyer.

12. I also request that the CHRC Tribunal send the Honourable Court a Certified Copy of the Minutes of Settlement dated 5 August, 2022 (the approval date). I make this request and I am not in receipt of this document; and

Request that the Tribunal sent a Certified Copy to the Court and I.

I as the Plaintiff plead rely upon the following:

[1] *Gelber v. Belber*, 2020 ONSC 1570, 2020 CarswellOnt 4786 [“Gelber”]

[2] Rules of Civil Procedure, R.R.O. 1990, Reg. 194

[3] *Oliver v. Sherman*, 2009 ONCA 772, [2009] ONCA 772, [2009] O.J. No. 6235, at para. 41. Sets out the test of what judges should consider when exercising their discretion to grant judgement; a) whether an agreement to settle was truly reached, and b) whether the agreement should be enforced.

[4] In *Scherer v. Paletta*, [1996] 2 O.R. 524 (C.A.) Evans J.A., writing for the majority, at paras. 10 and 11.

[5] *Gelber*, supra note 1 at para 26

[6] *Marcel Equipment Ltd. V. Equipment Benoit D'Armours et Fils Inc.*, [1995] O.J. No. 673 (Gen. Div.), at paras. 77 – 78.

[7] *Ferron v. Avotus Corp* [2005] O.J. No. 3511 (S.C. J.) aff'd 2007 ONCA 73 [2007] O.J. No. 353, at para 28

[8] *L-Jalco Holdings Inc. v. Lawrynowciz & Associates*, 2018 ONSC 4002, 294 A.C. W. S. (3d) 274, at para. 38: a) whether the offer was clear and unequivocal; b) whether a mistake was made; c)

Whether the settlement was reasonable; d) the degree of prejudice to “either party” if the agreement is not given effect; and e) the effect of the settlement on the third party if the settlement is not enforced.

[9] *Canada (Human Rights Commission) v. Taylor* [1990] 3 S.C.R. 892.

[10] *Tremaine v. Canada (Human Rights Commission)*, 2014 FCA 192 (30 days imprisonment, Plus additional conditional sentence of up to six months

[11] *Winnicki v. Canada (Human Rights Commission)*, 2007 FCA 52 (83 days served)

[12] *Canada (Human Rights Commission) v. Canadian Liberty Net*, 1996 CanLII 4021, [1996] 1 F.C. 787 (CA) (fines of \$2,500 and \$5,000, plus two days served);

[13] *Canada (Human Rights Commission) v. Heritage Front (No, 3)*, 1994 fines of \$5,000 for the organization;

[14] *Rameau v. Canada (Attorney General)*, 2012 FC 1286;

[15] *Tahmourpour v. RCMP*, 2013 FC 622 (CanLII);

[16] *Hughes v. Transport Canada*, 2019 CanLII 118898 (FC);

[17] Federal Court Act, RSC 1985, c. F-7 as amended, and the Federal Courts Rules made thereunder and pursuant to Rules 466 – 472;

[18] CHRC (T) Minutes of Settlement approved by the Commission and dated 5 August, 2022;

[19] Canadian Human Rights Act R.S.C. 1985, c. H-6 (As amended); and pursuant to subsection 48.1 and 48.3 of the Canadian Human Rights Act; and

[20] Treasury Board Secretariat decision dated 16 March, 2023 by Ms. Carole Bidal, Associate Assistant Deputy Minister at TBCS. "I declare that the CHRC has breached the 'No Discrimination' clause of the law practitioners collective agreement.";

[21] All governing policies, procedures and guidelines that purport to address racial discrimination and harassment within the Royal Canadian Mounted Police, as they may have applied or continue to apply at any material time; and

[22] The Bastarache Report re: Merlo/Davision v. RCMP "Broken Promises and Broken Dreams dated 2 December, 2020;

[23] Breach of Section 15 of the Charter.

RELIEF SOUGHT

As the Plaintiff I claim, the following:

- (a) An Order certifying this action be ratified by the Honourable Court that compels the Respondent and "all" lawyers involved to abide by the MOS as identified therein;
- (b) General damages for the continued injury my family and I have suffered in the amount noted above;
- (c) Compensation for Mr. Coward's continued work on this case over the past five (5) years and identified above;
- (d) Any other damages that this honourable sees fit that will hold the parties in this matter responsible and accountable for their collective "Breach" of the MOS and their "Contempt" for the process they signed and agreed to contained in the MOS.

As the Plaintiff in this matter, I request that this Action be tried in Halifax, Nova Scotia.

Copies of the Federal Courts Rules, information concerning the local offices and 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 thereof.


IF YOU FAIL TO DEFEND THIS PROCEEDING (within the 10 days accorded), Judgement may be given against you in your absence and without further notice to you.

DATED at Halifax, Nova Scotia, this 1st day of September, 2023.

ORIGINAL SIGNED BY
MICHAEL KOWALCHUK
ORIGINAL SIGNÉ PAR

Issued by: _____

Registry Office

I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the 1 day of September A.D. 2023
Dated this 1 day of September 2023


Address of Local Office: 1801 Hollis Street

Halifax, NS B3J 3N4

TO: Attorney General of Canada
c/o Deputy Attorney General of Canada
2015 Old Sambo

From: Maurice Carvery
minigrizzly@icloud.com

Department of Justice Canada, Atlantic Regional Office
Halifax, NS B3V 1C1

Suite 1400, Duke Tower
5251 Duke Street
Halifax, NS B3J 1P3

Canadian Human Rights Commission
c/o Ms. Holly Holtman, Director General Legal Counsel
344 Slater St. 8th Floor

Ottawa, ON K1A 1E1

Mr. Chris Rootham, Legal Counsel Nelligan Law

50 R. O'Connor Street

#300, Ottawa, ON K1P 6L2

Mr. Brian Sauve, President NPF

220 Laurier Ave., W

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Royal Canadian Mounted Police (RCMP)

c/o Commissioner Commanding Officer "H" Division Mr. Denis Daley

80 Garland