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F I L E D	FEDERAL COURT COUR FÉDÉRALE		D É P O S É
February 25, 2022 25 février 2022			
Vanessa George			
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Court File No.

FEDERAL COURT

B E T W E E N:

DEAN FERRI

Plaintiff

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA (DEPARTMENT OF
NATIONAL DEFENCE) and THE ATTORNEY GENERAL OF CANADA and
FJ MANNY and JOHN DOE

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S)

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.

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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 _____
Local Registrar

Address of Federal Court of Canada
court office: 180 Queen Street West
Toronto, ON M5V 1Z4

TO: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**
DEPARTMENT OF NATIONAL DEFENCE
National Defence Headquarters
Constitutional Building
305 Rideau Street
Ottawa, ON K1A 0K2

AND TO: **FJ MANNY and JOHN DOE**
DEPARTMENT OF NATIONAL DEFENCE
National Defence Headquarters
Constitutional Building
305 Rideau Street
Ottawa, ON K1A 0K2

AND TO: **ATTORNEY GENERAL OF CANADA**
Ontario Regional Office
Department of Justice Canada
120 Adelaide Street West, Suite #400
Toronto, ON M5H 1T1

CLAIM

1. The Plaintiff claims:
 - (a) the sum of \$3,000,000 in general damages;
 - (b) the sum of \$3,000,000 in special damages;
 - (c) prejudgment interest in accordance with the *Federal Courts Act*, R.S.C., 1985, c. F-7;
 - (d) post judgment interest in accordance with the *Federal Courts Act*, R.S.C., 1985, c. F-7;
 - (e) the costs of this proceeding, plus all applicable taxes; and
 - (f) Such further and other relief as to this Honourable Court may seem just.
2. The Plaintiff, **DEAN FERRI** (the “**Plaintiff**”), is a resident of the town of Welland, in the Province of Ontario, and at all material times was the owner and operator of a Bombardier Skidoo bearing Ontario license plate number 4AR398 (hereinafter referred to as the “Plaintiff’s Snowmobile”).
3. The Defendant, **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**, is named pursuant to s. 48 of the *Federal Courts Act* and the corresponding Schedule, and all references to the Defendant, the Crown, the Department of Defence or Canadian Forces in this claim include the Government of Canada. Her Majesty the Queen in the Right of Canada administers, controls and oversees the **DEPARTMENT OF NATIONAL DEFENCE** and the **CANADIAN FORCES**, which is a federal body that operates a

primary reserve infantry regiment of the Canadian Army known as Les Fusiliers Mont-Royal (hereinafter referred to as “FMR”). At all material times, Her Majesty the Queen in Right of Canada, is vicariously and otherwise liable for all acts and omissions of Her employees, servants and/or agents, including the Department of National Defence and the Canadian Forces, specifically the primary infantry regiment of the Canadian Army known as Les Fusiliers Mont-Royal, and FJ Manny. At all material times, Her Majesty the Queen in the Right of Canada and the Department of National Defence was the owner and/or lessor of a snowmobile bearing vehicle number V26466K (hereinafter referred to as the “Defendant’s Snowmobile”) and provided Her full permission and consent to the operation of the Defendant’s Snowmobile to the Defendant, FJ Manny.

4. The Defendant, the **ATTORNEY GENERAL OF CANADA**, is named pursuant to the *Department of Justice Act*, R.S.C. 1985, c. J-2, and the *Crown Liability and Procedure Act*, R.S.C. 1985, c. C-50. In this claim, references to the “Defendants” include either or both Her Majesty the Queen in Right of Canada (Department of National Defence) and the Attorney General of Canada, as the circumstances require.
5. The Defendant, **FJ MANNY**, is an Adjutant, administrative assistant to a commanding officer in the primary infantry regiment of the Canadian Army known as Les Fusiliers Mont-Royal bearing Personal Record Identifier and Service Number K33556830. At all material times, FJ Manny was an operator of snowmobile bearing vehicle number V26466K (hereinafter referred to as the “Defendant’s Snowmobile”). At all material times, the Defendant, FJ Manny, operated the Defendant’s Snowmobile with the full permission and consent of the Department of National Defence. The Defendant’s Snowmobile was owned and/or leased by the Department of National Defence and Canadian Forces. At all

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material times, the Defendant, FJ Manny, was an employee, servant and/or agent of the Department of National Defence and Canadian Forces.

6. The Defendant, **JOHN DOE**, is the commanding officer of the primary infantry regiment of the Canadian Army known as Les Fusiliers Mont-Royal. At all material times, John Doe was an employee, servant and/or agent of the Department of National Defence and Canadian Forces.
7. On or about the 3rd day of March, 2020, the Plaintiff was operating the Plaintiff's Snowmobile, travelling south on Trail 23 at or near KM 32 environ, in or around the La Jacques-Cartier Regional County Municipality, in the Province of Quebec. The Defendant, FJ Manny, was operating the Defendant's Snowmobile as part of a training exercise, traveling northbound on Trail 23 at or near KM 32 environ, in the Province of Quebec. Suddenly and without warning, the Defendant's Snowmobile, travelling northbound on Trail 23, lost control and hit a snowbank on the side of the trail, causing the Defendant's Snowmobile to deviate in the direction directly into the path of the Plaintiff's Snowmobile, violently colliding with the Plaintiff's Snowmobile. As a result, of the collision, the Plaintiff sustained serious, permanent and catastrophic impairments.
8. The Plaintiff states the aforesaid collision arose as a result of the negligence or combined negligence of the Defendants, the particulars of such negligence being as follows:

AS AGAINST THE DEFENDANT, FJ MANNY:

- (a) he failed to keep a proper or any lookout and, therefore, he failed to discover

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the presence of danger visible and obvious to a reasonable person or to an ordinary and prudent person;

- (b) he created an emergency and a situation of danger;
- (c) he had the last clear chance to avoid a collision and failed to take advantage of it;
- (d) he failed to take any steps to avoid a collision which he knew or ought to have known was about to occur;
- (e) he failed to stop or slow for traffic in front of his path;
- (f) he failed to see, read or obey snowmobile traffic;
- (g) he permitted herself to arrive at such a condition from drinking alcoholic beverages or absorbing drugs that her normal faculties, perception, will and judgment were so affected that he no longer had the capacity to operate a motor vehicle with the caution characteristic of a reasonable, careful motorist who has not consumed such beverages or absorbed such drugs;
- (h) he created a situation of emergency and danger from which the Plaintiff could not extricate himself;
- (i) he was travelling at an excessive rate of speed under the circumstances;
- (j) he failed to apply his brakes or, in the alternative, he failed to apply his brakes in a manner calculated to avoid a collision, or in the alternative, his brakes were defective;
- (k) he failed to exercise due care and attention in the operation of his snowmobile;
- (l) on the occasion in question he was an incompetent driver lacking reasonable skill and self-command and ought not to have attempted to operate a snowmobile;
- (m) he operated his snowmobile when he knew, or ought to have known that it was not in a fit mechanical condition;
- (n) he failed to maintain the snowmobile in a fit or proper mechanical condition suitable for its safe operation;
- (o) his attention was distracted by radio, cellular telephone, passengers or otherwise;

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- (p) he failed to give any adequate signal or warning of the approach of his snowmobile or intended course, although such warning was reasonably necessary under the circumstances;
- (q) he drove carelessly contrary to Chapter C-24.2, Highway Safety Code, Quebec;
- (r) he failed to observe the rules of the road as required by Chapter C-24.2, Highway Safety Code, Quebec;
- (s) he failed to use due care and attention in the management of his snowmobile, or reasonable consideration for other persons using the trail, as required by Chapter C-24.2, Highway Safety Code, Quebec;
- (t) he failed to yield for traffic with the right of way, causing the collision herein; and
- (u) he was travelling at an excessive rate of speed, lost control and hit a snowbank and entered the path of the Plaintiff's Snowmobile, causing the collision herein.

AS AGAINST THE DEFENDANT, HER MAJESTY THE QUEEN IN THE RIGHT OF CANADA (DEPARTMENT OF NATIONAL DEFENCE)

- (a) Her Majesty failed to maintain the Defendant's Snowmobile in good and proper working order;
- (b) Her Majesty allowed an incompetent driver, lacking in reasonable care, skill, ability, training and judgment to operate the Defendant's Snowmobile;
- (c) Her Majesty allowed the Defendant, FJ Manny, to operate the Defendant's Snowmobile while he was under the influence of alcohol, prescription medication or illegal drugs;
- (d) Her Majesty allowed the Defendant, FJ Manny, to operate the Defendant's Snowmobile when Her Majesty knew or ought to have known that the Defendant, FJ Manny, was inexperienced, immature and/or prone to doing daring or unsafe activities;
- (e) Her Majesty permitted the Defendant's Snowmobile to be operated when Her Majesty knew or ought to have known that the Defendant Snowmobile was not in a sound mechanical condition; and
- (f) Her Majesty failed to properly train the driver of the Defendant Snowmobile.

AS AGAINST THE DEFENDANT, JOHN DOE

- (a) He failed to maintain the Defendant's Snowmobile in good and proper working order;
 - (b) He allowed an incompetent driver, lacking in reasonable care, skill, ability, training and judgment to operate the Defendant's Snowmobile;
 - (c) He allowed the Defendant, FJ Manny, to operate the Defendant's' Snowmobile while he was under the influence of alcohol, prescription medication or illegal drugs;
 - (d) He allowed the Defendant, FJ Manny, to operate the Defendant's Snowmobile when he knew or ought to have known that the Defendant, FJ Manny, was inexperienced, immature and/or prone to doing daring or unsafe activities;
 - (e) He permitted the Defendant's Snowmobile to be operated when he knew or ought to have known that the Defendant Snowmobile was not in a sound mechanical condition; and
 - (f) He failed to properly train the driver of the Defendant Snowmobile.
9. As a result of the accident, the Plaintiff sustained permanent and serious impairments of important physical, mental and psychological functions and permanent, serious disfigurement including but not limited to injuries to the following:
- a) Traumatic brain injury
 - b) Concussion
 - c) Headaches
 - d) Dizziness
 - e) Severe left wrist pain

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- f) Bilateral shoulder pain
- g) Perfusion abnormalities of anterior temporal lobes and inferior frontal lobes
- h) Injury to cervical and lumbar spine
- i) Partial laminectomies at C5 vertebra and C6 vertebra on left side with partial facetomy and foraminotomy
- j) Post traumatic vestibulopathy
- k) Post traumatic vision syndrome
- l) Cervical radiculopathy
- m) Right occipital neuralgia
- n) Depression, anxiety and stress

His enjoyment of life has been lessened and he has been put to medical, hospital and other out of pocket expenses. His ability to participate in previously enjoyed social, recreational and household activities has been seriously impaired and will remain impaired. As a result of his injuries, he has been and remains unable to carry out the full duties of his employment and that he has and will continue to suffer a loss of self-esteem and his enjoyment of life has been seriously impaired. He has and will continue to suffer economic losses including, but not limited to, a loss of economic advantage in the marketplace.

10. As a result of the accident, the Plaintiff has undergone and will continue to undergo in the future, extended therapy, rehabilitation and other forms of medical treatment and, in

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addition, he has received and will continue to receive medication for his accident-related injuries. The Plaintiff has incurred and will continue to incur expenses for medication, therapy, rehabilitation, medical treatment, other forms of care and other expenses resulting from the accident, the full particulars of which will be provided prior to trial.

11. The Plaintiff pleads and relies upon the provisions of the *Insurance Act*, RSO 1990, Chapter 1.8 and amendments thereto and the *Negligence Act*, RSO 1990, Chapter N.1 and amendments thereto, the *Federal Courts Act*, R.S.C. 1985, c F-7, the *Department of Justice Act*, R.S.C. 1985, c. J-2, the *Crown Liability and Proceedings Act*, R.S.C., 1985, c. C-50, the *Civil Code of Quebec*, S.Q. 1991, c. 64, Art. 1457, the *Interpretation Act*, R.S.C. 1985, c.1-16, s. 8.1, the *Courts of Justice Act*, and amendments thereto and the *Federal Courts Rules*.
12. The Plaintiff proposes that this action be tried in the City of Toronto.

2/25/2022

DocuSigned by:

Rohan Haté

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ROHAN HATÉ

MCPHADDEN SAMAC TUOVI HATÉ LLP

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Lawyers for the Plaintiff

DEAN FERRI
Plaintiff

-and- HER MAJESTY THE QUEEN IN RIGHT OF CANADA et al.
Defendants

Court File No.

FEDERAL COURT

Proceeding commenced at
Toronto

STATEMENT OF CLAIM

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