

## FEDERAL COURT

e-document

BETWEEN:

JOSEPH CRAIG

F I L E D	FEDERAL COURT COUR FÉDÉRALE	D É P O S É
	Sep 13, 2024	
Renee Cornick		
St. John's, NL		1

FIRST PLAINTIFF

AND:

MICHELLE CRAIG

SECOND PLAINTIFF

AND:

HIS MAJESTY THE KING IN RIGHT OF  
CANADA AS REPRESENTED BY  
FISHERIES AND OCEANS CANADA

FIRST DEFENDANT

AND:

WILLIAM McGILLIVRAY

SECOND DEFENDANT

**STATEMENT OF CLAIM**

TO THE DEFENDANTS:

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiffs. 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 Plaintiffs' solicitor or, if the Plaintiffs do not have a solicitor, serve it on the Plaintiffs, 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: September 13, 2024

Issued by: \_\_\_\_\_

ORIGINAL SIGNED BY  
ORIGINAL SIGNÉ PAR  
RENEE CORNICK  
REGISTRY OFFICER  
AGENT DU GREFFE

**Registry Officer**  
Registry of the Federal Court  
354 Water Street, Suite 209  
St. John's, NL A1C 1C4

**TO:** **His Majesty the King in Right of Canada**  
**c/o Fisheries and Oceans Canada**  
Northwest Atlantic Fisheries Centre  
80 White Hills Road  
PO Box 5667  
St. John's, NL A1C 5X1

**AND TO:** **William McGillivray**  
Northwest Atlantic Fisheries Centre  
80 White Hills Road  
PO Box 5667  
St. John's, NL A1C 5X1

## THE CLAIM

1. Joseph (Joe) Craig is a resident of Bauline, Newfoundland and Labrador, (mailing address: Box 1033, Torbay NL A1K 1K8) and, since June 21, 1999, has been a full-time salaried employee of Fisheries and Ocean Canada (“DFO”) as a physical oceanographer in the Environmental Sciences Division.
2. Michelle Craig is also a resident of Bauline, Newfoundland and Labrador, is the spouse of Joseph Craig, and is employed as a professional engineer.
3. The First Defendant, His Majesty the King in Right of Canada (“His Majesty”), as represented by DFO, was at all material times Mr. Craig’s employer. DFO maintains a regional office at the Northwest Atlantic Fisheries Centre (“NAFC”) having a mailing address of 80 East White Hills Road, PO Box 5667, St. John’s, NL, A1C 5X1.
4. Further, at all material times (from May 9, 2022, to present), His Majesty employed William McGillivray as DFO’s Regional Director General (“RDG”), Newfoundland and Labrador Region. His Majesty is vicariously responsible at law for RDG McGillivray’s actions, decisions, and omissions.

## FACTS

### **Mr. Craig’s Employment History with DFO**

5. From 1999 to September 30, 2015, Mr. Craig worked at NAFC. Since 2015, Mr. Craig’s work has been based at his home. Throughout his 25 years of employment, Mr. Craig worked at the best of his ability to achieve DFO’s objectives. Mr. Craig’s annual reviews confirm the satisfactory quality of his performance and he was also on a path to moving up within the department.
6. Mr. Craig’s job duties include, but are not limited to:
  - a. Publishing research documents;
  - b. Co-authoring state of the environment papers;
  - c. Developing methods for calculating environmental indices;
  - d. Reviewing scientific documents and analyzing scientific data;

- e. Participating in scientific documents as a presenter and a participant;
  - f. Conducting field work; and
  - g. Leading small teams on scientific missions.
7. Mr. Craig aspired to advance his career at DFO and he actively engaged in improving his knowledge, skills, and abilities, including the following steps:
- a. Mr. Craig learned French as a second language and was recognized by DFO Management for this successful undertaking;
  - b. As early as 2011, Mr. Craig intended to and took steps toward pursuing a Ph.D., which was endorsed by DFO as having areas of worthy study potential;
  - c. As of 2012, a three-year Leadership Training Program was part of Mr. Craig's Career Development Plan; and
  - d. On several occasions, Mr. Craig worked in a low management position as Acting Head of the Biological and Physical Oceanography Section.

### **Banishment from the NAFC**

8. On September 24, 2015, Mr. Craig was abruptly informed that, due to complaints lodged by anonymous co-workers (the "**Complainants**"), relating to an incident in August 2015, he was required to leave the NAFC immediately escorted by his immediate supervisor.
9. DFO did not provide Mr. Craig any information regarding the August incident. Further, it did not provide Mr. Craig with an opportunity to respond to the complaints made against him. There was no grievance filed in relation to the August incident.
10. Mr. Craig was assigned to work from Cabot Place until November 9, 2015, when he was assigned to a telework arrangement from his home which he was told was not expected to last more than three weeks. The telework arrangement carried on until November 21, 2022, and has continued to present while Mr. Craig has been on paid medical leave.
11. As an additional requirement, Mr. Craig was prohibited from contacting anyone at DFO, or personnel of the Canadian Coast Guard, other than his union representatives, his



supervisor, and his manager. This prohibition lasted almost 7 years and was not lifted until September 16, 2022.

12. Early in the telework arrangement, there were frequent computer interruptions impeding productivity, partly related to the remote location of Mr. Craig's residence and partly related to other technical reasons. The work assigned needed a large computer bandwidth to be available to process the statistical data used in Mr. Craig's work. The causes of the connection difficulties were identified but DFO chose not to implement the technical solution. This rendered the home teleworking arrangement ineffective and demonstrated DFO had no continuing interest in Mr. Craig as a productive employee. For Mr. Craig it was frustrating and added to his feeling of isolation.
13. The time away from the NAFC passed from the estimated three weeks, to months, and on to years. Mr. Craig lost opportunities to be engaged with other fisheries scientists, opportunities for advancement passed him by, he became concerned for his job security, anxiety set in, and depression followed. Throughout this period Mr. Craig remained on salary, he was available to be employed as directed, and while waiting patiently he periodically inquired when he would be permitted to return to the NAFC. Management indicated progress was being made with the Complainants and the return-to-work plan at the NAFC was being developed.
14. Return to work timing at NAFC was discussed within management but various plans fell through. By late 2016 and early in 2017, Mr. Craig wanted to return to the normal work site and to its activities, but he began to doubt DFO was trying to address the Complainant demands. Mr. Craig came to believe DFO benefitted from him being out of sight at the NAFC. From this point, Mr. Craig realized that to advance his career he had to accept that despite what was being said, management would not exercise its authority to implement a balanced plan involving all the parties. Mr. Craig's trust for DFO eroded as the out of sight, out of mind strategy, seemed to serve to pacify the Complainants. Without management addressing the Complainant demands, there was no acceptance of responsibility to find a solution for all the affected employees, including Mr. Craig.

## 2017 Agreement

15. Further time passed without change to the working arrangements. In July 2017, Mr. Craig renewed a conversation for authorization to pursue education at Memorial University of Newfoundland & Labrador (“MUN”). This was not Mr. Craig’s preferred career development plan, but he had to do something to address the vacuum imposed on his professional development. Mr. Craig offered a leave proposal that DFO approved using article 17.20(a) of the Agreement Between the Treasury Board and the Professional Institute of the Public Service of Canada (Group: Applied Science and Patent Examination) (the “**Collective Agreement**”) that allowed the employer to grant leave for purposes other than those specified in the Collective Agreement.
16. The proposal, which became an agreement (the “**2017 Agreement**”), allowed Mr. Craig to pursue full-time fisheries science doctoral studies on full salary and benefits. The assigned activity at MUN (offsite from NAFC) was in line with DFO’s intentional strategy to passively address the complaints against Mr. Craig by simply keeping him away from the Complainants. The employer’s support, both financial and collaborative in the studies, was also in line with departmental science objectives and was permitted to continue so long as Mr. Craig was in good standing under MUN’s Ph.D. program requirements.
17. The 2017 Agreement included the following explicit and implied terms:

### **Mr. Craig’s Terms**

- a. Mr. Craig attended classes and other educational assignments at MUN and was not to push the requests to appear at the NAFC.
- b. Mr. Craig worked on educational studies overseen by DFO supervisors.
- c. Mr. Craig chose a studies program in line with DFO’s scientific objectives.
- d. Mr. Craig was to continue to be bound by the prohibition from conversations with any other employees of DFO, or the Canadian Coast Guard, other than the assigned educational supervisor.
- e. Mr. Craig clarified with DFO that his preference continued to be his eventual return to his former duties at NAFC.



### **DFO's Terms**

- a. DFO offered the leave not as "Education Leave" under the Collective Agreement, but, as a grant of leave for purposes other than those specified in the Collective Agreement.
  - b. Mr. Craig was no longer required to be available at his home for full-time work.
  - c. DFO relied on Mr. Craig not appearing unannounced at the NAFC.
  - d. DFO continued to pay full salary and benefits.
  - e. DFO paid tuition and related research expenses.
  - f. DFO recognized the time as a student as pensionable service time.
  - g. DFO did not require performance of any regular fisheries science related work.
  - h. DFO could stop consideration of a solution to correct technical problems of the employer's communication system to the required telework home office.
  - i. DFO suspended annual performance reviews.
  - j. DFO allowed the arrangement to continue to the end of doctoral studies program with extensions if required as permitted by the university.
18. The 2017 Agreement fundamentally altered the terms of employment and created a separate agreement outside the terms of the Collective Agreement under which:
- a. The employer waived the requirement and the benefit of continuing employee productivity, daily, in the hope that Mr. Craig's education would make him more valuable for future service.
  - b. The employer waived the benefit of continuing employee productivity, daily, in consideration for (to buy time) to attempt to placate the Complainants' concerns over the pending return of Mr. Craig; and
  - c. The employee waived the fundamental right to go to normal work because, due to banishment for an indefinite term, he lost confidence in the employer's honesty and in DFO's commitment to plan his return to work.
19. Mr. Craig commenced the Ph.D. studies program as a senior student in September 2017, and it is near completion. Since 2017, Mr. Craig has frequently requested permission to return to NAFC for the limited purpose to facilitate the link of the studies to the employer's

science objectives, and to organize the preparation of his thesis at his office location, but these requests were denied.

20. Throughout 2019 to 2021, Mr. Craig offered proposals to management, by which Mr. Craig was willing to mediate and reconcile with the Complainants. DFO responded that some but not all the Complainants were interested. No initiative was undertaken to work with the few before it was learned that they had withdrawn their interest.

### **Breach of 2017 Agreement**

21. In February 2021, the RDG Jacqueline Perry insisted that it was necessary for her to conduct a "Pre-disciplinary Hearing" in which she requested Mr. Craig to comment on a summary of the allegations. The summary made no reference to an August 2015 incident, or to workplace violence or misconduct. The allegations were that on various occasions prior to 2015, at work, Mr. Craig had demonstrated "childish" and "sophomoric" behaviour. While the behaviour had annoyed certain Complainants, there was no evidence anyone had suffered injuries or illness and there had been no misconduct.
22. On June 22, 2022, DFO confirmed in writing that no disciplinary action would be pursued. This was not a surprise as Mr. Craig felt he had done nothing wrong. Mr. Craig continued to hope to work in the public service, however, the prolongation of the prohibition of Mr. Craig from all communications with his co-workers, and the banishment from the workplace, had a deepening harmful psychological impact. The separation from the other scientists caused Mr. Craig complete loss of confidence, and he and his family suffered anguish and distress. Mr. Craig was being given no opportunity as a part of a respectful workplace to demonstrate good behavior, or to be reconciled with the Complainants.
23. On November 21, 2022, Mr. Craig was called to a meeting at a local hotel where he was informed by RDG William McGillivray, without reasons, that the department was callously and abruptly, without negotiation, withdrawing its commitments of the 2017 Agreement. The employer support for the education program was being withdrawn effective immediately. The continued banishment of Mr. Craig from NAFC would not only continue, but it was also made permanent. Arrangements would be made for Mr. Craig to attend work at a new leased location to be determined and not at any of the employer's standard work offices.



24. The November 21<sup>st</sup> news was devastating and within a few days Mr. Craig experienced illness and required medical leave. Prior to this time Mr. Craig had required less than 6 days sick leave over 23 years. In 2023, Mr. Craig was diagnosed with acute adjustment disorder from the specialized care of a psychologist and a psychiatrist. While on medical leave he continued to try to pursue the studies program with the hope of eventually returning to work.

### **Unpaid Sick Leave**

25. Throughout the remainder of 2023 and into 2024 Mr. Craig was on leave and seeking medical support but he continued to have the hope and long-term objective of returning to work. Mr. Craig continued, when he was able, to pursue his studies program with the funding having been withdrawn. Michelle Craig supported her husband throughout and notwithstanding adverse health impacts from the tension and anxiety on her, and disruptions to her professional career, she attended meetings and medical appointments involving her husband and assisted him under authority of a Power of Attorney, to seek information and submit documents in compliance with DFO demands, on his behalf.

26. On April 12, 2024, Mr. Craig was informed that as of May 16, 2024, his employment status would change to sick leave without pay and there would be no further salary paid after May 17, 2024. This decision had various implications including, but not limited to, Mr. Craig would soon not be engaged in pensionable service, which added to his anxiety. The employer directed Mr. Craig to apply for disability insurance, under an application process requiring parts to be completed from each of the employee, the medical team, and the employer. On May 22, 2024, Mr. Craig was informed by email that, to avoid an overpayment situation, he had until Friday, May 24, 2024, at 12:00pm to submit the employee's part of the disability insurance.

27. In despair, Mr. Craig requested his wife to complete his part of the application and authorized her under the Power of Attorney to request the medical team to complete and submit their part of the application. The employee portion was completed and sent to the employer by registered mail and the employer acknowledged Mr. Craig's compliance with the filing requirement. Weeks passed and Mr. Craig learned from the insurer that the employer had not submitted its portion of the application. It was only after Mr. Craig

reminded the employer on June 11, 2024, that an acknowledgement was received that the employer would comply.

28. To this day, Mr. Craig's standard salary has continued to be paid. Inquiries have been made to confirm the payments of regular salary are occurring and the official status of the application for the disability insurance on the employer's website is that the case has been completed. Mr. Craig has been left waiting in suspense for the next direction or occurrence from the employer.

### **INFLICTION OF MENTAL SUFFERING**

29. Mr. Craig pleads intentional infliction of mental suffering or, in the alternative, negligent infliction of mental suffering.
30. DFO's conduct on November 21, 2022, in which it breached the 2017 Agreement and withdrew support for Mr. Craig's Ph.D. studies, banished him from the NAFC permanently, and left him with no return-to-work plan, was, at worst, calculated to cause harm or, at best, completely careless as to the harm that such a decision would cause.
31. The breach of the 2017 Agreement represents the culmination of a pattern of mistreatment which, ultimately, has caused Mr. Craig to experience serious mental health difficulties, including acute adjustment disorder, which have disabled him from working on his Ph.D., being available to work at the direction of the DFO in the short-term, and ever returning to work for the DFO in the long-term.

### **Intentional Infliction of Mental Suffering**

32. As of November 2022, Mr. Craig had been banished from his workplace, without contact with his colleagues, and without meaningful work in furtherance of the DFO's mandate, objectives, and goals, for 7 years and this has since extended to 9 years.
33. DFO's support of Mr. Craig's Ph.D. studies was the only remaining connection that Mr. Craig had with his employer.
34. When DFO breached the 2017 Agreement, and withdrew its support for Mr. Craig's Ph.D. studies, it took away the only connection that Mr. Craig had to his work and completely abandoned him.



35. DFO did not meaningfully supervise Mr. Craig's studies. It did not set out a plan for the application of the studies to the DFO's work. It did not provide a return-to-work plan. In fact, it banished Mr. Craig from his workplace at the NAFC permanently.
36. DFO knew that Mr. Craig was isolated. It knew that he was hoping to return to work some day. It knew that he and his wife were struggling. In that context, and knowing that Mr. Craig was vulnerable, RDG McGillivray and DFO acted to completely take away any connection to work whatsoever from Mr. Craig.
37. As evidenced by its out of sight, out of mind strategy, DFO never wanted Mr. Craig to return to work. As long as Mr. Craig stayed away, DFO could satisfy the Complainants without actually taking any restorative action. Not wanting Mr. Craig to ever return, DFO reneged on the 2017 Agreement knowing that it would completely erode Mr. Craig's trust in his employer and send him into a state of anxiety and depression that would disable him from returning to work. It was to DFO's benefit that Mr. Craig never return to the NAFC.
38. In the days immediately following the November 21, 2022, meeting with RDG McGillivray, Mr. Craig's mental health deteriorated to a state of requiring professional help. In 2023, he was diagnosed with acute adjustment disorder. Mr. Craig continues to suffer at present.

### **Negligent Infliction of Mental Suffering**

39. As Mr. Craig's employer, DFO owed a duty of care to Mr. Craig.
40. DFO's complete abandonment of Mr. Craig, in withdrawing its support for his continued education, banishing him from his workplace, and not offering a return-to-work plan, is a breach of the standard of care that DFO owes to Mr. Craig.
41. This breach of the standard of care has directly caused the following damage and/or losses:
  - a. Mental distress and/or suffering, including but not limited to anxiety, depression, and acute adjustment disorder,
  - b. Loss of paid leave days, which Mr. Craig has used/exhausted;
  - c. Loss of paid sick days, which Mr. Craig has used/exhausted;



- d. Loss of paid overtime and extra income from oceanographic missions at sea;;
- e. Loss of career advancement opportunities, including loss of pay and benefits, including pension benefits;
- f. Delay of Ph.D. studies, which, in turn, has delayed realization of the benefits of the said studies, including loss of opportunity for career advancement and the associated pecuniary benefits, such as salary increases (including pension benefits), and/or the loss of opportunity to pursue alternate employment suitable to such education;
- g. Costs of psychological care and treatment, including but not limited to counselling and prescription drugs; and
- h. Additional cost of legal services due to Mr. Craig's concern regarding the conflict of interest of his union while representing him and the Complainants.

#### **CHARTER BREACHES**

- 42. DFO, as a department of the Federal Government of Canada, is subject to the application of section 32 of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11 (the "**Charter**").
- 43. The Collective Agreement confirms that Mr. Craig is due full rights and freedoms by the DFO. Article 6.01 of the Collective Agreement reads "***Nothing in this Agreement shall be construed as an abridgment or restriction of an employee's constitutional rights or of any right expressly conferred in an act of the Parliament of Canada***".
- 44. For seven years (until September 16, 2022), the DFO prohibited Mr. Craig from communicating with any persons at DFO (not just the Complainants), or personnel of the Canadian Coast Guard, other than his union representatives, his supervisor, and his manager. DFO imposed this prohibition to further its out of sight, out of mind policy, by which it could pacify the Complainants by ensuring there would be no contact between them and Mr. Craig. This prohibition is in breach of Mr. Craig's rights and freedoms under s. 2(b) and 2(d) of the *Charter*.

## Section 2(b) – Freedom of Expression

45. Section 2(b) of the *Charter* states:

### Fundamental freedoms

2 Everyone has the following fundamental freedoms:

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

46. In the course of his employment, Mr. Craig had regular contact with colleagues, supervisors, union members, union representatives, and third parties for the purpose of fulfilling his employment duties.

47. As a scientist, it would simply be impossible for Mr. Craig to fulfill his duties without communicating with a wide range of personnel. Mr. Craig's regular communications included, amongst other things, speaking with other scientists during field work, working collaboratively with co-authors on papers, and providing directions to team members on missions (the "**Expressive Activity**").

48. Mr. Craig's oral and written communication conveyed meaning in that communicated data, findings, comments, thoughts, inquiries, and opinions about the subject-nature of his work, which is the theoretical and practical study and research of the physical properties of oceans. Mr. Craig's communication contributed to our country's understanding and treatment of the oceans. It was communication that furthered the search for scientific truth. Such communication constitutes expression.

49. DFO, in ordering Mr. Craig not to speak to anyone at the DFO, other than his union representatives, his supervisor, and his manager, implemented a rule with the purpose of restricting Mr. Craig's Expressive Activity. This restriction was imposed for the purpose of furthering the out of sight, out of mind strategy, which allowed the DFO to pacify the Complainants without taking any real action.

50. The prohibition on communication, which was almost endless in scope and lasted for 7 years, exceeds the ambit of what was reasonable in the circumstances and is completely unjustified in a free and democratic society.



## Section 2(d) – Freedom of Association

51. Section 2(d) of the *Charter* states:

### **Fundamental freedoms**

Everyone has the following fundamental freedoms:

(d) the freedom of association.

52. The importance of the violation of the freedom of association cannot be understated. Mr. Craig is a scientist and as such his work involves by necessity access to and association with other scientists who normally work through an iterative process of building, refining and improving their ideas. The purpose of the constitutional guarantee of freedom of association is to recognize the profoundly social nature of human endeavours and to protect the individual from state enforced isolation in the pursuit of his ends. Mr. Craig was not asked and did not consent to his home being used as his employer's workplace. Mr. Craig has a fundamental right to engage collectively in those activities which are constitutionally protected for each individual, one of which is his right to work within a group, that group of scientists who worked for DFO at the NAFC.

53. The DFO ordered limits on the freedom of association of Mr. Craig were not justifiable under s. 1 of the *Charter*. Mr. Craig's employment at NAFC is an essential component of his sense of identity, self worth and emotional well being. Accordingly, the conditions in which he was restricted were highly significant in shaping the psychological, emotional, and physical elements of his dignity and self respect. DFO decisions were either intentional or grossly careless and had the effect of destroying Mr. Craig as a productive DFO employee.

54. As an achievement which admits a person to the status of a contributing, productive, member of society, employment is seen as providing recognition of the individual's being engaged in something worthwhile. Employment gives the individual a sense of significance. By realizing our capabilities and contributing in ways society determines to be useful, employment comes to represent the means by which most members of our community can lay claim to an equal right of respect and of concern from others. It is this institution through which most of us secure much of our self respect and self esteem. The ongoing banishment of Mr. Craig that DFO has carried on beyond 9 years has taken away Mr. Craig's individual sense of significance, his self respect, and his self esteem.



## **GENERAL DAMAGES**

55. Mr. Craig and Mrs. Craig have suffered losses of enjoyment and life due to DFO's conduct and its breach of Mr. Craig's *Charter* rights.
56. Mr. Craig has always taken great pride in being a scientist and a public servant. His employment is and always has been an essential component of his sense of identity, self-worth, and emotional well-being. His work has played a significant role in shaping the whole compendium of the psychological, emotional, and physical elements of his dignity and self-respect.
57. DFO, in completely withdrawing any support for Mr. Craig's studies and failing to provide him with any return-to-work plan have completely taken away the enjoyment, fulfillment, and sense of purpose that Mr. Craig has gotten from working as a physical oceanographer for his country.
58. DFO's renegeing on the 2017 Agreement completely eroded Mr. Craig's trust in his employer, made him question his worth and purpose, and forced him to question himself as to whether he is a bad or immoral person who got what he deserved.
59. He has suffered from anxiety, depression, and acute adjustment disorder, which has resulted in losses.
60. Michelle Craig has also suffered diminishing health and personal loss as she supported her husband throughout these events and witnessed the impacts of the anguish on her husband and the depletion of family wealth due to the legal cost of the matter which was incurred because the union had been disqualified by its decision to represent other members who had been Complainants.

## **SPECIAL DAMAGES**

61. Mr. Craig has experienced reductions of, loss of, or disqualification from, a full public service pension following 25+ years of public service. He has also had a loss of career advancement opportunities since September 1, 2015, and losses of pay and benefits, including pension benefits, from the losses of advancement. In addition, Mr. Craig has lost sick leave credits.

### **AGGRAVATED DAMAGES**

62. The Defendants' conduct toward Mr. Craig has been flagrant, oppressive, and outrageous and has caused additional harm, distress, anxiety, humiliation and mental suffering.
63. The communication prohibition imposed by DFO on Mr. Craig resulted in him being completely isolated. He was lonely, disconnected, and felt villainized. Without being able to communicate as needed for his job, he felt a sense of despair and total loss.
64. The permanent banishment of Mr. Craig from the NAFC was entirely humiliating. He was treated like a criminal who was the subject of a probation order. His self confidence, self image, and self worth plummeted.
65. In withdrawing its support for Mr. Craig's studies, the DFO left Mr. Craig in a void wherein he had absolutely no sense of his future at the DFO. He wondered whether they would continue to employ him. He worried he would have to find other suitable work. This caused distress and anxiety.
66. Finally, in informing Mr. Craig that he was being placed on unpaid sick leave but continuing to pay full salary, DFO has created a situation of uncertainty that is intolerable. Mr. Craig does not know when his pay will be cut off, he is fearful that he will no longer be engaged in pensionable service, and, overall, he is concerned about his employability.
67. Both Joe Craig, and by extension Michelle Craig, were hurt by management bad faith, extreme unfair dealing, false condemnation, persistent attempts to justify extreme positions, and by outrageous and malicious conduct, which was calculated to punish Joe Craig, or to produce the damaging effect of the kind that was produced.

### **PUNITIVE DAMAGES**

68. The Defendants' conduct toward Mr. Craig, in imposing a communication prohibition, banishing him permanently from the NAFC, withdrawing its support of his Ph.D. studies, and failing to provide him with any return-to-work plan is malicious, oppressive, high-handed, reprehensible and exceptionally egregious.
69. Despite no evidence of inappropriate phone calls, emails, instant messages, etc. with the Complainants, the DFO imposed a near complete communication prohibition on Mr. Craig



for 7 years. The prohibition was used to separate Mr. Craig from the Complainants but had the impact of completely stymieing Mr. Craig's productivity, his ability to do his job, and his career progress. Such a prohibition was unwarranted, inappropriate, and disproportionate. It was harsh and excessive.

70. Despite the conclusion that Mr. Craig's behaviour was nothing more than "childish" and "sophomoric", DFO banished Mr. Craig from his workplace, the NAFC, permanently. It proceeded with this extreme form of punishment instead of first proceeding with more proportionate measures such as allowing Mr. Craig to return on a trial basis under the supervision of a designated person.

71. If DFO had concerns about Mr. Craig's continued interaction with the Complainants, there were more proportionate, less harsh measures available to it that ought to have been implemented before completely severing any interaction between Mr. Craig and his workplace.

72. When DFO breached the 2017 Agreement, the Plaintiff was entirely vulnerable. He had been isolated from his colleagues for seven years. He had not received any meaningful work from his employer. He was completely uncertain of his future with DFO. DFO went back on its promise and commitment to allow Mr. Craig to return to work.

73. RDG William McGillivray and DFO have shown a disregard for Mr. Craig, who was in a vulnerable position, that is callous, shocking, and a marked departure from the ordinary standards of decent behaviour expected of an employer, especially as expected in the Canadian federal public sector.

## **RELIEF SOUGHT**

74. The only reasonable way to address the impact of the bad faith dealings experienced by Joe and Michelle Craig is to firstly help him restore his health and put him back in the financial position he was in before these events occurred. This involves compensation for his and her damage claims, restitution to allow them as a married couple to go back on course to qualify him for a full pension, based on reasonably adjusted pensionable service calculations, and ordering the full payment of their legal costs.



75. The facts also warrant an award of punitive damages in a meaningful amount to draw attention to the bad faith or careless management activities and to and send a message of deterrence.

76. The Plaintiffs repeat the foregoing and seek:

- a. A declaration that the Defendants' conduct constitutes intentional infliction of mental suffering, or, alternatively, negligent infliction of mental suffering;
- b. A declaration that the Defendants violated Mr. Craig's rights and freedoms under sub-sections 2(b) and 2(d) of *Charter*;
- c. Damages pursuant to the common law and section 24(1) of the *Charter* under the following heads of damages:
  - i. General damages suffered by both Plaintiffs to be defined at trial.
  - ii. Special damages for:
    1. Reductions of, loss of, or disqualification from, a full public service pension following 25+ years of public service,
    2. Loss of career advancement opportunities since September 1, 2015,
    3. Losses of pay and benefits, including pension benefits, from the losses of advancement, and
    4. Loss of sick leave credits.
  - iii. Aggravated damages in the amount to be determined at trial.
  - iv. Punitive damages in and amount to be determined at trial.
- d. Pre-judgment and post-judgment interest in accordance with the *Judgment Interest Act*, RSNL 1990, c J-2;
- e. Costs of this action on a substantial indemnity basis together with HST; and
- f. Such further and other relief and may seem just.

77. The Plaintiff proposes that this action be tried in the City of St. John's, Province of Newfoundland and Labrador.

**DATED** at the City of St. John's, Province of Newfoundland and Labrador, this 10<sup>th</sup> day of September, 2024.

I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the \_\_\_\_\_ day of Sep 13, 2024 A.D. 20\_\_\_\_  
Dated this \_\_\_\_\_ day of Sep 13, 2024 20\_\_\_\_

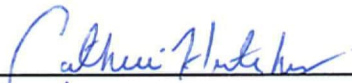


**RENEE CORNICK  
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AGENT DU GREFFE**



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