

File No. T-1595-24

ID# 1

Federal Court

Proposed Proceeding

Between:

Wallace Fowler

Plaintiff

-and-

Attorney General Of Canada

Defendant

| | |
|--------------------------------|--------|
| FEDERAL COURT COUR FÉDÉRALE | |
| FILED | DEPOSE |
| JUN 26 2024 | |
| ADAM YOUNG | |
| HALIFAX, NS | 1 |

STATEMENT OF CLAIM

Filed the 26 day of June, 2024

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by Wallace Fowler

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, and file it, with proof of service, at a local office of this Court, **WITHIN THIRTY 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 filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period for filing and serving your Statement of defence is sixty days.

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 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 26 day of June, 2024.

Issued by: ORIGINAL SIGNED BY
ADAM YOUNG
ORIGINAL SIGNÉ PAR
Registry Office

Address of Local Office: 1801 Hollis Street
Halifax NS B3J 3N4

TO: Attorney General of Canada
c/o Deputy Attorney General of Canada
Department of Justice Canada, Atlantic Regional Office
Suite 1400, Duke Tower
5251 Duke Street
Halifax NS B3J 1P3

CLAIM

I. INTRODUCTION

1. When individuals enroll in the Canadian Forces, they do so honorably and willing to risk life and limb to protect and advance the ideals that Canada purports to uphold; equality, fundamental justice, due process, and the essential right to live and work in an environment that fosters human dignity and that is free from intolerance, racism, systemic discrimination, and collusion.
2. These are among the most noble of pursuits, and the courage and decency of those who work towards these ideals cannot be understated. But Unfortunately, the Canadian Forces has failed to look after its own with respect to these most basic human rights.
3. The Ombudsman's Office played a part in the collusion with the Canadian Armed Forces who is in the position of being "Independent" but in fact works with the Department of National Defence to corroborate stories denying people of color justice.
4. In the result, the Honour of the Crown and the reputation of the Canadian Forces has been tarnished. The lives of many have been devastated and some people have lost their lives.
5. This action concerns systemic racial discrimination and harassment in the Canadian Forces. From the top to bottom, the Canadian Forces and the Prime Minister(s) has failed to protect racial minorities and Aboriginal peoples from racism within the ranks.
6. Derogatory slurs, racial harassment, collusion, and violent threats are tolerated or ignored. The "system" for responding to such misconduct within the Canadian Forces is nothing more than a mechanism authorized by Canada to silence the wrongs, thereby perpetuating and encouraging the racism itself.
7. Rather than properly punishing the wrongdoers and deterring insidious behaviour, victims of racism within the Canadian Forces are forced into isolation, subjected to further trauma and, in my case I suffered PTSD and a early release in my career from falsified reports from the collusion from the Ombudsman's office and the Canadian Forces, along with Ministers of Nation Defence lying, the Grievance Board, the Judge Advocate Generals Office, Senators in Ottawa,

Members of Parliament, RCMP, Human Rights, United Nations, Governor General of Canada, and others play a part to conceal the truth from the public.

8. I have suffered racism and systemic discrimination during my time enrolled in the Canadian Forces right from basic training.
9. Pursuant to the Crown Liability and Proceedings Act, RSC 1985, c. C-50, the Defendant, the Attorney General of Canada, represents the Crown, the Canadian Forces, and those Crown Servants (as defined below) who are responsible for the creation, continuation and perpetuation of systemic racial discrimination and harassment within the Canadian Forces.
10. My plead and rely upon the following:
 - (a) Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c. 11.
 - (b) Crown Liability and Proceedings Act RSC 1985, c. C-50, as amended.
 - (c) National Defence Act, RSC 1985, c. N-5, as amended, and the regulations made thereunder.
 - (d) Canadian Forces Superannuation Act, RSC 1985, c. C-17, as amended, and the regulations made thereunder.
 - (e) Federal Courts Act, RSC 1985, c. F-7, as amended, and the Federal Courts Rules made thereunder.
 - (f) All governing policies, procedures and guidelines that support to address racial discrimination and harassment with the Canadian Forces and Canada, as they may have applied or continue to apply at any material time.

II THE CANADIAN FORCES

11. The Canadian Forces is Canada's military, bound to serve His Majesty the King.
12. Section 14 of the National Defence Act provides that: "The Canadian Forces are the armed forces of His Majesty raised by Canada and consists of one Service called the Canadian Armed Forces".
13. Within this statement of Claim, I use the term "**Canadian Forces**" in accordance with the National Defence Act, so to include the following:

- (a) The three forces that form part of the Canadian Armed Forces: the regular force; the reserve force; and the special force; and
 - (b) The sea, land and air elements referred to, respectively, as the Royal Canadian Navy, the Canadian Army, and the Royal Canadian Air Force.
14. Pursuant to section 36 of the *Crown Liability and Proceedings Act*, a Member of the Canadian Forces is deemed to be a servant of the Crown.

II. The Plaintiff (Wallace Fowler)

15. The Plaintiff, Wallace Fowler, was born on 05 November, 1973. I am a black man from Nova Scotia. Over the course of many years, I have courageously raised many questions and concerns about systemic racism within the Canadian Forces.
16. My experiences with racism in the Canadian Forces began in 1997, and again in 2000, when I was posted to CFB Borden as a vehicle technician (where I finished 1st in basic training).

On the basis of my race, I was subjected to racial harassment and discrimination by my superiors. Without limitation, this included:

- (a) Being the subject of racist nicknames and racist jokes, often referred to as "sunshine" and "boy" by my superiors and other Members in my section;
 - (b) Being denied administrative time, which was allowed for other (Caucasian) Members within my section;
 - (c) Being singled out for punishment in a discriminatory fashion;
 - (d) Being denied, on the basis of my race, the necessities of food, shelter and proper clothing during adverse weather conditions resulting in hypothermia; and
 - (e) Being isolated and removed from the rest of my section, thereby reinforcing the culture of racist division within the Canadian Forces.
17. After filing a complaint with the Chain of Command at CFB Borden, it was suggested to myself that the matter should be informally addressed. Thereafter, I was inappropriately coerced by my supervisors into dropping the complaint.
18. Along with my family, I was then posted to CFB Esquimalt. Shortly after their arrival in August 2001, I and my family suffered a series of racially motivated

incidents. Racist slurs and derogatory actions were hurled at my family. My step-children were spat on, subjected to drive-by verbal assaults, put off the school bus and made to walk home in excess of 3-5 kilometers, and denied lunch in the cafeteria. Members refused to serve my spouse on base including the store she worked in.

19. The Canadian Forces did absolutely nothing to respond to my concerns-concerns which, by this time, had escalated beyond the affront to basic human dignity and had moved into a real fear for the safety and security of my family.
20. Instead my concerns were cast aside as falling beyond the responsibility of the Canadian Forces. This is despite the following recommendation that was made by the Formation Social Work Officer to the Base Commander at CFB Esquimalt:

Pte Fowler reported that none of the discrimination happened in direct relation to his duty or workplace, and it can be argued that the CF cannot be held directly responsible for the discrimination the Fowlers have experienced. However, consideration must be given to the optic that could result were the CF to refuse to post a member out of a locale where the family was subjected to racial discrimination, some of which occurred in a PMQ area and possibly involved PMQ residents, after having posting them there in the first place. In that respect, granting him a posting to Halifax as requested would both provide the family respite from the torment they have currently perceive and demonstrate the CF's commitment to its members. With the help of a supportive⁴ extended family and community the Fowler's could learn to better tolerate racial discrimination they might encounter at another posting.

It is recommended that Pte Fowler be posted to a Halifax area unit and that his employment be restricted such that he be available to provide his family with a stable home environment, and facilitate their attendance in a program which would heal the harm done by the racial discrimination experienced in his current posting and teach them coping skills to deal with any future occurrences. It is further recommended that CFB Esquimalt make it a priority to extend its

multicultural integration / anti-racism education program to its residential communities.

The Base Social Worker wrote:

This Social Work report is submitted with respect to the member's request at Reference A for a Compassionate Posting to Halifax due to the race-related difficulties he and his family have suffered since being posted to Esquimalt. The member was interviewed at References B and C. A/FSWO verified a number of incidents of racism the member reported experiencing at Reference D.

Pte Fowler and his family appear to have been victims of racial discrimination on a number of occasions.

Pte Fowler reported that none of the discrimination happened in direct relation to his duty or workplace, and it can be argued that the CF cannot be held directly responsible for the discrimination the Fowlers have experienced. However, consideration must be given to the optic that could result were the CF to refuse to post a member out of a locale where the family was subjected to racial discrimination, some of which occurred in a PMQ area and possibly involved PMQ residents, after having posting them there in the first place. In that respect, granting him a posting to Halifax as requested would both provide the family respite from the torment they have currently perceive and demonstrate the CF's commitment to its members. With the help of a supportive⁴ extended family and community the Fowlers could learn to better tolerate racial discrimination they might encounter at another posting.

It is recommended that Pte Fowler be posted to a Halifax area unit and that his employment be restricted such that he be available to provide his family with a stable home environment, and facilitate their attendance in a program which would heal the harm done by the racial discrimination experienced in his current posting and teach

them coping skills to deal with any future occurrences. It is further recommended that CFB Esquimalt make it a priority to extend its multicultural integration / anti-racism education program to its residential communities.

The Padre (Chaplin) has acknowledged the reputational impact of any failure to combat racism within the Canadian Forces, as follows:

Pte Fowler and his wife have asked me to write in support of his Quality of Life posting request. I have known Pte Fowler and his family since January of this year. At the time the Fowler family believed that they were victims of racial discrimination and they have provided me ample evidence that this is not just a hunch or a personal feeling, but in fact a reality.

*... In the CF, we pride ourselves on fairness, duty, loyalty and honour, to name a few. We stand between warring factions, seeking peace and demand justice for people in need; even visible minorities, and we will go to extraordinary lengths to assist them, regardless of the cost. This is what makes Canada a great and respected nation. Yet, for all of our good intentions, our national and world image could be deeply stained on just one accusation of failing to take care of one of our own families, facing severe discrimination (to them) because they are from a visible minority, and because "no one would listen to them". If the member were to seek the assistance of his local community, I believe this could be perceived a **national scandal**.*

The Base Commander (Commander Taylor) wrote:

Pte W.J. Fowler and his family were posted to CFB Esquimalt on 28 August 01. Although Pte Fowler has integrated well into his work environment in the base Orderly Room, he and his family have consistently experienced racial discrimination outside of the military workplace. Specifically, his children have been taunted and harassed at school and in the PMQ area where they live. Furthermore, the family has generally felt ostracized while living in Victoria. Attempts to cope and/or

remedy the situation have been circumstances have greatly affected the quality of life of this serviceman and his family.

The Formation Social Work Officer and Counselling Services Coordinator at the local Military Family resource centre have reviewed this case and acknowledge that the Fowler's are experiencing significant stress while residing in the Victoria area. I wholeheartedly support the recommendation that he and his family be posted to Halifax or as a secondary preference another base in the Atlantic region where they can be supported by family members and feel more comfortably integrated into the local community.

My Member of Parliament (Keith Martin) wrote:

Private Fowler and his family have been subjected to repeated incidents of racial discrimination in Esquimalt. these incidents have escalated so much that the police have become involved. Private Fowler's children have endured hardships at school and within the community due to their race. Private Fowler's spouse has been victimized by racially motivated attacks, and has been harassed repeatedly in the community.

Clearly, racial discrimination and these kinds of vicious attacks are completely and utterly unacceptable. Unfortunately there has been no way to control them, and Private Fowler has found no other recourse but to request this compassionate posting. To date he has had no response to his request and that is why I am approaching you to expedite it. Private Fowler does not want to leave the armed forces, and would just like to do his job.

21. None of these recommendations were followed. CFB Esquimalt did not extend any anti-racism programs. Rather than being posted to Nova Scotia, I was sent to CFB Trenton.

22. At CFB Trenton, the racial harassment and discrimination continued against myself and my family. In addition, I was placed under the command of the very same superior officer who tried to block my transfer out of CFB Esquimalt. When a black harassment officer saw what was going on and tried to assist me he was told by the same superior officer to "stay out of this, this is being handled by the higher ups. It's non of your business". In fact, nothing was being done by the higher ups except more discrimination and harassment.
23. In the result, and after months of ridicule and isolation being locked in a storage basement, I was diagnosed with serious and deteriorating psychological illnesses. While I was stationed at CFB Trenton, I was referred to a psychiatrist at CFB Downsview and diagnosed with Major Depression Disorder, and Racial Abuse. I continued to suffer from these serious health issues today, none of which were present at my time I enrolled in the Canadian Forces.
24. The atmosphere of racial discrimination and harassment I encountered while serving in the Canadian Forces had significant and negative effects on my physical and mental health, human dignity and sense of self-worth.
25. Unable to work, I was released early from the Canadian Forces - at the age of 30 - as being "Not Advantageously Employable", thereby restricting my employability and employment options in the future. Accordingly, I was deprived of the opportunity for advancement and progression through the ranks within the Canadian Forces, along with the resulting loss of income, pensionable earnings and future pension income.
26. At every juncture, I reached out for assistance from the Canadian Forces. I attempted to file a complaint about the racism I was experiencing, only to be forced into signing a release. I attempted to work through the formal grievance process, but was told that the racism I perceived and suffered did not actually exist.
27. Although there may be policies within the Canadian Forces that purport to address racial harassment and discrimination, they are inadequate and were (in any event) either ignored or improperly applied at every step, all to the prejudice of my health and career.
28. Even the National Defence and Canadian Forces Ombudsman (hereafter, the "**Ombudsman**") acknowledged that a formal investigation was never conducted, noting:

A/DMGIEE [Director Military Gender Integration and Employment Equity] advised in a memo dated May 10, 2003 that there was "no substantiation or evidence supporting his (Pte Fowler's) allegations on the file". Their memo also states that equitable treatment in an attempt to accommodate his particular needs, and has been given the benefit of the doubt on several occasions". My investigators learned from DMGIEE that their review was limited to an audit of Pte Fowler's file, and that they did not conduct a formal investigation or contact anyone outside of DMGIEE

29. The Ombudsman also highlighted the systemic concerns within the Canadian Forces. Through a series of preliminary reports, the Ombudsman referred to these systemic concerns as follows:

However, my office's assessment did identify two systemic issues that should be pursued further, the first being: what is the CF's role and responsibility with respect to assisting with the integration of members and their dependents, specifically those that are visible minorities, into the community. The second issue concerns the CF's policy with respect to independent or higher level review of harassment complaints and more specifically of racism. At present the existing policies are silent or lacking on these two issues.

From a systemic perspective, DND and the CF should undertake a policy review of its harassment and racism policies with the aim of introducing a higher level review or oversight function which would introduce a "systemic" monitoring perspective.

However, I believe that we found sufficient evidence to warrant a more in-depth investigation into the posting of visible minorities and the efficacy of NDHQ in dealing with possible racism with DND/CF, to determine if policy change is required. The statements of visible minority

members we spoke to during the course of this assessment were credible and compelling. Their evidence was also worrying.

Again, I invite your comments on my findings before my proposed submission date to MND Graham on 05 December 2005. I believe these systemic concerns merit immediate attention and action...

30. Despite this call for “immediate attention and action” more than 20 years ago, nothing has been done.
31. Indeed, and after improper communication and collusion between the Ombudsman and the Department of National Defence, the final Ombudsman report contained no reference to the above-noted systemic concerns and simply concluded:

We found no evidence that he was the subject of racism or unfair treatment in the workplace at either CFB Esquimalt or CFB Trenton.

With respect to his treatment at CFB Borden, his allegations of racist treatment appear to have been addressed appropriately...

Overall, given the results of our review, I have determined that, in accordance with paragraph 18(2) of the Ministerial Directives regarding my Office, it would not be a judicious and efficient use of the Ombudsman’s resources to conduct a full investigation into Private Fowler’s complaint.

32. I tried to work within the system that has been established as a response to complaints of racial discrimination and harassment within the and by the Canadian Forces. This has failed, because this “system” is itself a failure. It has

done nothing more than silence the wrongs, further isolate myself to protect and insulate the culture of racism within the Canadian Forces, thereby keeping it from public scrutiny and condemnation.

33. In the August 5, 2015 letter from the Office of the Judge-Advocate General (Exhibit "BB"), there is no mention of a letter that I sent to Major General D.B. Millar on 08 January, 2014. just after Christmas I wrote this letter based on my increasing and sheer frustration with the inconsistencies and the lack of transparency and accountability from the system that was established to purportedly respond to concerns of racism within the Canadian Forces. I wrote this letter in response to a letter from Major General Millar a few days earlier, I received no further response from Major General Millar with respect to my concerns. In the 11 page letter the letter says (in part):

In conclusion, your client's file has been reviewed by external agencies on several occasions. No evidence of systemic racism in the CF was found. Furthermore, there are mechanisms in place to deal with any occurrences of racism, harassment, or discrimination in the CF.

III. LIABILITY OF THE DEFENDANT

The Plaintiff makes three general claims against the Defendant, each of which is particularized in the subsequent paragraphs:

- (a) The racism, racial harassment and discrimination in the Canadian Forces rises to the level of systemic negligence. The Defendant is vicariously liable for the systemic misconduct that has occurred in the Canadian Forces and Ombudsman's office as committed by Crown Servants (as described below).
- (b) The defendant has unjustifiably breached the Plaintiffs' right to be free from discrimination on the basis of race, national or ethnic origin and/or colour under section 15 of the *Charter*.
- (c) The Defendant has breached the Honour of the Crown.

A. Vicarious Liability for Systemic Racial Harassment and Discrimination

34. The Defendant is liable for the systemic racial discrimination negligently committed by those individual Crown servants who have - individually or collectively - failed to adequately create, follow and/or apply policies, procedures and guidelines to address racial discrimination and harassment within the Canadian Forces.
35. The Defendant is also liable for the negligent misconduct of those individual Crown servants who have created or contributed to the systemic culture of racism within the Canadian Forces, pervasively or intentionally or subconsciously or otherwise.
36. Collectively, the above- noted individual Crown servants are referred to as the **"Crown Servants"**.
37. Section 36 of the *Crown Liability and Proceedings Act* deems a member of the Canadian Forces to be a servant of the Crown. At all material times, this Crown Servant was (and continue to be) governed and bound by a common set of rules of conduct and legal obligations.
38. Each of these Crown Servants owed duties of care to the Plaintiff as subordinates and/or colleagues to ensure I was at all times working in an environment free of racism and racial discrimination, particularly in light of: (i) the extraordinary commitment made to honorably serve this country in the Canadian Forces; and (ii) the undertaking and commitment by the Department of National Defence and the Canadian Forces to eliminate racial discrimination and harassment within and amongst the ranks.
39. These Crown Servants breached their duties of care by:
 - (a) Making derogatory comments and the Plaintiff, my race, which suggested the Plaintiff were less worthy and less competent because of my race;
 - (b) Harassing the Plaintiff because of my race, national or ethnic origin, and colour;
 - (c) Failing to intervene when derogatory racial comments and harassing misconduct were observed and to hold accountable those Crown Servants who so commented and harassed in a racist fashion;
 - (d) Perpetuating a workplace culture where racism was considered acceptable;

- (e) failing to have in place and/or implement policies, procedures and guidelines to proactively or adequately address, investigate, and remedy complaints of racial discrimination;
- (f) Failing to adequately investigate complaints of racial discrimination in a thorough, timely, impartial and effective manner;
- (g) Depriving the Plaintiff the opportunities within the Canadian Forces because of my race;
- (h) Ignoring and/or improperly interfering with reports from the Ombudsman highlighting the systemic problem of racial discrimination in the Canadian Forces and the absence of adequate policies, procedures or guidelines to effectively respond thereto;
- (i) Interfering in complaints without authority to do so; and
- (j) Effectively punishing the Plaintiff for making complaints, thereby further isolating me from my peers in the Canadian Forces.

40. The negligent misconduct that the Crown Servants directed towards the Plaintiff or otherwise tolerated was repetitive, extreme, and calculated to harass the Plaintiff. As a result of this misconduct, the Plaintiff has suffered ongoing injuries and damages as particularized in this Statement of Claim.

B. Breach of Section 15 of the Charter

41. The Defendant has breached the Plaintiff to be free from discrimination on the basis of race, national or ethnic origin and/or colour, pursuant subsection 15(1) of the Charter, by a combination of action and inaction on the Defendant's own part and on the part of the Canadian Forces and Crown Servants, including but limited to:

- (a) Failing to have and/or implement adequate policies, procedures or guidelines to ensure the Plaintiff's dignity, safety, health and welfare, and to minimize the risk of their being subjected to discrimination and harassment on the basis of race;
- (b) Failing to properly supervise Crown Servants to ensure they were not committing acts of discrimination and harassment, thus contributing to an environment that creates, contributes to and tolerates systemic racial discrimination;

- (c) Failing to properly investigate allegations of racial discrimination and harassment in the workplace in a thorough, timely, impartial and effective manner;
- (d) Ignoring and/or improperly interfering with reports from the Ombudsman highlighting the systemic problem of racial discrimination in the Canadian Forces and the absence of adequate policies, procedures or guidelines to effectively respond thereto;
- (e) Permitting and/or failing to prevent differential negative treatment of the Plaintiff on the basis of my race; and
- (f) Perpetuating racial stereotypes.

- 42. The very nature of racial harassment, and the systems that perpetuate it, is to treat racial minorities and Aboriginal persons differently because of our race, ethnicity, and/or colour. The impugned action and inaction has perpetuated systemic and arbitrary disadvantages faced by members of these enumerated groups as protected under the Charter, all of which has thwarted the achievement of substantive equality in the Canadian Forces.
- 43. The infringements of subsection 15(1) cannot be justified under section 1 of the Charter, because the basis for such systemic racial discrimination and harassment: (I) was and is not prescribed by law; (II) was and is not based on any objective that could be considered pressing and substantial; and (III) was and is not, in any event, rationally connected to any such pressing and substantial objective (which does not exist). Put simply, there are no ends that can justify systemic racial discrimination and harassment as a means within a free and democratic society.
- 44. Damages should be awarded pursuant to subsection 24(1) of the Charter as they are just and appropriate to: (I) provide compensation that might not otherwise be awarded to the Plaintiff; (II) vindicate the Plaintiff, and society at large for the harm caused by these violations of section 15 of the *Charter*; and (III) deter future breaches.

C. Breach of Duty on the Honour of the Crown

45. The unique relationship between the Defendant and the Plaintiff justifies the imposition of a special duty on the Defendant based on the Honour of the Crown.
46. Members of the Canadian Forces voluntarily risk their lives in the service to their country. Not only must they be willing to make the ultimate sacrifice, but they must be willing to obey their superiors and to put themselves in danger for their fellow Members.
47. This is expressly mandated by the National Defence Act, which imposes certain extraordinary obligations and consequences upon all members, including but not limited to the following:
 - (a) The obligation to serve, which is binding until the Member is lawfully released: subsection 23(1);
 - (b) The obligation to perform any lawful duty upon command: subsection 33(1);
 - (c) The potential for life imprisonment upon conviction for desertion or attempted desertion during active service: subsection 88(1); and
 - (d) The potential for imprisonment for being absent without leave: subsection 90(1).
48. In turn, these extraordinary commitments require all aspects of the Crown (including the Defendant, as His Majesty's representative) to act honorably.
49. The system racial discrimination and harassment in the Canadian Forces is dishonourable, particularly in light of the hierarchy and command structure of the Canadian Forces. This institutional structure causes or contributes to a collective culture within the Canadian Forces to silence the wrongs and to discourage the escalation of complaints up to the Chain of Command, thereby leaving the Plaintiff without any (or any adequate and effective) recourse for the racial discrimination and harassment they suffered at the hands of the Crown Servants.
50. The Honour of the Crown obliges the Defendant to ensure Members of the Canadian Forces receive fair and equitable treatment during their environment. This Obligation to ensure fair and equitable treatment constitutes an express or

implied promise by the Defendant to the Members of the Canadian Forces - all as pleaded and detailed in this Statement of Claim - is a breach of this solemn promise for which the Defendant is liable.

IV. APPLICATION OF QUEBEC LAW

51. Insofar as any of the impugned conduct, action and inaction of the Crown Servants and the Canadian Forces - all as pleaded and detailed in this Statement of Claim - occurred in the Province of Quebec, this constitutes:
- (a) Fault giving rise to the extra-contractual liability of the Crown Servants, pursuant to Article 1457 the *Civil Code of Quebec*, SQ 1991, c. 64, and the *Charter of Human Rights and Freedom*, RSQ, c. C-12;
 - (b) Fault giving rise to the extra-contractual liability of the Defendant, pursuant to the *Crown Liability and Proceedings Act*, and Article 1464 the *Civil Code of Quebec*; and
 - (c) Unlawful and intentional interference with the rights of the Plaintiff, as protected by the *Charter of Human Rights and Freedom* and thus giving rise to the liability of the Defendant to pay punitive damages pursuant thereto and pursuant to Article 1621 of the *Civil Code of Quebec*.

V. Damages

52. As a result of the above-noted breaches and misconduct, the plaintiff have sustained serious and continuing physical and psychological injuries, losses and damages for which the Defendant is liable.
53. These injuries have caused, and continue to cause the Plaintiff pain, suffering, loss of enjoyment of life, permanent disability, mental and emotional anguish, a diminished sense of dignity, self-esteem and self-worth, damage to promotional and career opportunities, loss of earnings and pension benefits (past and prospective), and the opportunity of having my own family and kids with never experiencing the possibility of being a father or grandfather. This country took 25 years of my life fighting for this very moment and that is to have my voice heard.
54. As a further result of the above-noted breaches and misconduct, the Plaintiff has sustained certain special damages, losses and expenses for medical and psychological treatment. The Plaintiff continues to undergo medical and psychological care and treatment and continue to incur such losses and expenses.

55. The Plaintiff further plead that the Defendant had specific and complete knowledge of the widespread and systemic racism occurring within the Canadian Forces, as well as specific and complete knowledge of the widespread racial discrimination and harassment of the Plaintiff. Despite this knowledge, the Defendant took no steps, or no reasonable steps, to put an end to that conduct, thereby permitting the ongoing harm to the Plaintiff. In these circumstances, punitive, exemplary and aggravated damages are appropriate and necessary.

VI. RELIEF SOUGHT

56. The Plaintiff claim on my own behalf as follows:

- a) General damages and special damages
- b) Punitive, exemplary and aggravated damages based on the abusive and reprehensible misconduct of the Canadian Forces and those Crown Servants who have showed a callous disregard for the Plaintiff's rights, dignity, health, and safety;
- c) Damages and systemic orders pursuant to subsection 24(1) of the *Canadian Charter of Rights and Freedom*;
- d) Pre-judgement interest;
- e) Costs;
- f) Release item changed immediately;
- g) A military pension with at least 20 years service and the promotion to the rank of CWO Chief Warrant Officer; and
- h) Such further and other relief as this Honourable Court may deem just.

The Plaintiff propose that this Action be tried at Halifax, Nova Scotia.

DATED: June 26th, 2024
I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the 26

day of June A.D. 2024

Dated this 26 day of June 2024


Adam Young
Registry Officer
Agent du greffe


Wallace Fowler

136 Brookside Rd.
B. We hill, N.S. B6L 2A9
(782) 774-5945