

## **Notice of a Class Action**

**Have you been incarcerated in the Special Handling Unit between March 26, 2015 to present?**

**Please read this notice, it could have an impact on your rights.**

### **THE CASE**

On March 15, 2021, the Superior Court of Quebec authorized Mr. Derrick Campeau, replaced on February 21, 2022, by Mr. Steven Charlish-Godin and Justin Fineday to institute a class action against the **Attorney General of Canada** (“AGC”) on behalf of:

#### **1. Class members incarcerated at the SHU:**

All persons incarcerated at the SHU, after March 26, 2015, for a period beyond fifteen (15) consecutive days ;

#### **2. Class members incarcerated at the SHU with mental health disorders:**

All persons incarcerated at the SHU after March 26, 2015, for an indeterminate period, who were diagnosed by a medical doctor either prior to or during their incarceration at the SHU with an Axis I Disorder (excluding Substance Use Disorders), or Borderline Personality Disorder, who suffered from their disorder, in a manner described at Appendix A, and reported such prior to or during their detention at the SHU ;

#### **3. Class members incarcerated at the SHU who meet the definition of Indigenous offenders**

All persons incarcerated at the SHU, after March 26, 2015, for a period beyond fifteen (15) consecutive days, and who are Indians, Inuits and Métis as defined at section 79 of the *Corrections and Conditional Release Act*.

(“The class”)

You are a class member if you meet one of the above class definitions.

### **THE AUTHORIZATION JUDGMENT**

On March 15, 2021, the Honourable Justice Suzanne Courchesne of the Superior Court of Quebec authorized a class action in court file # 500-06-000917-183, against the Attorney General of Canada and appointed Derrick Campeau as class representative Plaintiff.

On February 21, 2022, the Honourable Justice Suzanne Courchesne granted the replacement of M. Derrick Campeau by Mr. Steven Charlish-Godin and Justin Fineday as class representative Plaintiffs’.

The class representatives instituted this class action on behalf of persons incarcerated at the Special Handling Unit (SHU), after March 26, 2015, due to alleged prolonged and indefinite placement at the SHU that constitutes a violation of the rights of the class members, protected by the *Canadian Charter of Rights and Freedoms*.

This class action seeks **compensatory damages** for the harm suffered by class members as a result of their prolonged detention at the SHU and **punitive damages** for the intentional violation of their fundamental rights by Correctional Service Canada.

The authorization judgment identified the following questions of fact and law to be decided collectively:

1. Does prolonged and indeterminate placement at the SHU violate sections 7 and 12 of the Canadian Charter? If so, are such violations justified under section 1 of the Canadian Charter?
2. Are the Class members entitled to damages as a just and appropriate remedy under section 24 of the Canadian Charter?
3. Is the Defendant committing a civil fault by placing class members at the SHU for prolonged and indeterminate periods?
4. Is the Defendant negligent by failing to rehabilitate offenders at the SHU and reintegrate them into the community?
5. Are class members entitled to compensation for the damages caused by the Defendant’s civil fault?
6. Is the Defendant’s management of SHU placements intentionally interfering with the rights of Class members under the Canadian Charter?
7. Are the Plaintiff and Class members entitled to punitive damages under the Canadian Charter?

The class action will be heard in the District of Montreal, Quebec.

## NATURE OF THE CLAIMS

The conclusions sought are as follows:

ORDER the Defendant to pay all class members the amount of \$50,000, to which is added \$800 per day of detention at the SHU, for each day after 15 consecutive days, plus interest and additional indemnity at the legal rate;

ORDER the Respondent to pay the Plaintiffs and all class members with mental health disorders prior to their detention at SHU the amount of \$50,000, to which is added \$1,000 per day of detention at SHU, plus interest and additional indemnity at the legal rate;

ORDER the Respondent to pay the Plaintiffs and all class members with Indigenous status, the amount of \$50,000, to which is added \$1,000 per day of detention at SHU, for each day after 15 days, plus interest and additional indemnity at the legal rate;

ORDER the Defendant to pay the Plaintiffs and each class member the amount of \$500,000 as punitive damages.

### **DO NOTHING IF YOU WISH TO PARTICIPATE IN THE CLASS ACTION**

A member who wishes to participate in the class action is automatically included and does not need to do anything. However, we invite you to contact our office in order to facilitate the collection of information.

### **YOU MUST OPT OUT FROM THE CLASS ACTION IF YOU DO NOT WISH TO PARTICIPATE**

A member who does not opt out of the class will be bound by a future judgment or by settlement, whether favourable or not, and will not be permitted to pursue an independent claim against the respondent for the same cause of action based on the same facts.

#### **Exclusion procedure:**

A member of the authorized class may opt out of this class action by sending a letter referring to court number **500-06-000917-183** to the Registry of the Superior Court of Quebec located at 1, rue Notre-Dame Est, Montreal (Quebec) H2Y 1B6, **no later than 60 days** from the publication of this notice.

1. Correctional Service Canada undertakes to provide a copy of this notice to class members who will be transferred to the SHU after the expiration of this period and to post this notice in the common spaces provided for this purpose at the SHU, until the Court orders otherwise.

2. Class member who transferred to the SHU **after** the expiration of this deadline may opt out of this Class action by sending a letter referring to court number **500-06-000917-183** to the Registry of the Superior Court of Quebec located at 1, rue Notre-Dame Est, Montreal (Quebec) H2Y 1B6, **no later than 60 days** from the date of his transfer.

A member who opts out is not permitted to participate in the class action.

Any class member who has already filed a lawsuit having the same object as this class action is deemed to have opted out if no discontinuance is filed before the expiry of the opt out deadline.

### **LEGAL ADVISOR AND LEGAL COSTS**

**Me Marie-Claude Lacroix** will represent class members in this class action as “class counsel”. As a class member, you will not be required to pay legal costs if the class action fails.

If successful, class counsel will apply to the court for approval of her fees and disbursements.

### **INTERVENTION AND COURT COSTS**

The case will be heard in the judicial district of Montreal.

A class member can submit a request to the Court to intervene in this class action. The Court will allow the intervention if it concludes that it is beneficial to the Group.

A class member covered by this class action other than the representative or an intervener cannot be required to pay Court costs of the class action.

### **ADDITIONAL INFORMATION**

This Notice was approved by the Superior Court of Quebec.

For information regarding this class action or to find out if you are a class member, or to find out more about your rights, please contact class counsel:

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## Appendix A

1. Significant impairment in judgment (including inability to make decisions; confusion; disorientation);
2. Significant impairment in thinking (including constant preoccupation with thoughts, paranoia; delusions that make the offender a danger to self or others);
3. Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders, staffs or follow correctional plan);
4. Significant impairment in communications that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
5. Significant impairment due to anxiety (panic attacks; overwhelming anxiety) that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
6. Other symptoms: hallucinations; delusions; severe obsessional rituals that interferes with ability to effectively interact with other offenders, staff or follow correctional plan;
7. Chronic and severe suicidal ideation resulting in increased risk for suicide attempts;
8. Chronic and severe self-injury;
9. A GAF score of 50 or less.