



FORM 66 – Rule 66

GENERAL HEADING

PROPOSED CLASS PROCEEDING

COURT FILE NO. T-1400-21

FEDERAL COURT

BETWEEN:

**YVETTE ZENTNER, and LETITIA WELLS as REPRESENTATIVE PLAINTIFFS**  
**Plaintiffs**

and

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by THE**  
**ATTORNEY GENERAL OF CANADA**  
**Defendant**

**Statement of Claim**

FORM 171A – Rule 171  
**PROPOSED CLASS PROCEEDING**

STATEMENT OF CLAIM TO THE DEFENDANT

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.

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

(Date) **SEP 14 2021** ORIGINAL SIGNED BY  
Issued by: \_\_\_\_\_ **KATHLEEN HARRILL**  
**A SIGNÉ L'ORIGINAL**

Address of local office: **Bureau local de Calgary**  
**Calgary Local Office** **635, 8th Avenue S.W.** **635, 8ième Avenue, sud-ouest**  
**Calgary, Alberta** **Calgary (Alberta)**  
**T2P 3M3** **T2P 3M3**

I HEREBY CERTIFY that the above document is a true copy of the original filed in the Court on / and dated  
**SEP 14 2021**  
  
**KATHLEEN HARRILL / REGISTRY OFFICER**

(Registry Officer)

TO:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
**As represented by THE ATTORNEY GENERAL OF CANADA**

3<sup>rd</sup> Floor, Canadian Occidental Tower  
635 Eighth Avenue SW  
Calgary, Alberta T2P 3M3  
CLAIM

## Claim

### A. YVETTE ZENTNER

1. The Representative Plaintiff Yvette Zentner, is a Band Member from the Siksika Nation, and resides in the city of Okotoks, in the Province of Alberta.
2. The Defendant represents Her Majesty the Queen in Right of Canada, sometimes referred to as the Crown in Right of Canada or the Government of Canada, and is the lawful Government of Canada.
3. The Defendant was the employer of Yvette Zentner and other employees of the same class.

### B. CLASS

4. The Plaintiff claims on behalf of herself and all Canadians who:
  - a. Are former employees of Indigenous and Northern Affairs Canada (“**INAC**”) who experienced harassment or discrimination at the workplace on the basis of Race, Culture, Ethnicity, or Gender;
  - b. Are current or former employees of Indian Oil and Gas Canada (“**IOGC**”) who experienced harassment or discrimination at the workplace on the basis of Race, Culture, Ethnicity, or Gender;
  - c. Are current or former employees of Crown-Indigenous Relations and Northern Affairs Canada (“**CIRNAC**”) who experienced harassment or discrimination at the workplace on the basis of Race, Culture, Ethnicity, or Gender; and
  - d. Are current or former employees of Indigenous Services Canada (“**ISC**”) who experienced harassment or discrimination at the workplace on the basis of Race, Culture, Ethnicity, or Gender.
  - e. INAC, IOGC, CIRNAC, and ISC together as the “**Indigenous Ministries**”.

### C. THE REPRESENTATIVE PLAINTIFFS

5. The Representative Plaintiff, Yvette Zentner, is a current employee at IOGC, and has been working there since 1997.
6. Yvette is an Aboriginal Woman from the Siksika First Nation.
7. During her 24 year employment with IOGC, Yvette has experienced harassment and discrimination from her superiors on a regular, on and off again basis.

8. Yvette believes she is a target for discrimination due to identifying as an Aboriginal Woman.
9. Despite having exemplary performance reviews, Yvette has frequently been denied promotions for which she was qualified. On one occasion, one of the abuser's, Dan Kumpf, instead hired a non-Aboriginal personal family friend.
10. Yvette has been frequently denied training for advancement that has been offered to others by her discriminating superiors. Yvette believes that she was not provided fair opportunity for advancement due to being Aboriginal.
11. In 2016, upon Yvette's formal complaint, one of her harassers, Wes Engman, was found guilty of harassing Yvette by an external company, The Ancien Group Inc.
12. After the finding of harassment was issued, Wes Engman was subsequently promoted within IOGC to Acting Manager of Negotiations, Subsurface Contracts and Research.
13. Eventually, because of numerous complaints regarding harassment and abusive conduct about Dan Kumpf, a Workplace Assessment was ordered in 2014 (the "**2014 Workplace Assessment**"). Dan Kumpf told employees that this consultant was to come in to look at efficiencies in the workplace.
14. The third party hired to conduct the 2014 Workplace Assessment, Karen Anthony, met with Yvette but didn't take notes during their meeting, stating that she "already heard it before."
15. The 2014 Workplace Assessment was vague and resulted in no meaningful change. In fact, it didn't even mention Dan Kumpf, who was the person whom the complaints were directed at. Furthermore, the steps of action taken to remedy the harassment were the ones approved by Dan Kumpf and were carried through under his direction.
16. While Karen Anthony was represented to employees at the IOGC as being a third party, she was awarded with a multi-year contract at IOGC after the 2014 Workplace Assessment was issued.
17. Yvette has filed two formal harassment complaints against Dan Kumpf, one of which was designated for internal investigation to one of Dan's superiors, Strater Crowfoot, as opposed to an independent third party.
18. These complaints were held to not meet the threshold for harassment. After this finding, Dan Kumpf laughed at Yvette when he saw her at the workplace. Yvette decided not to report this harassment because she felt disempowered from the immediately proceeding harassment investigation.

19. Yvette has been threatened with legal action in slander for bringing harassment concerns to the Human Resources Manager, Michael Jacobs. These threats were done with the intent to intimidate and silence staff who spoke up about being harassed.
20. Some of Yvette's co-workers have bullied her at the workplace. Including, but not limited to, purposely holding back her work by getting to her requests last, as well as intentionally disrupting Yvette's fundraising for charitable causes. These were causes for which Yvette has previously won the Queen Elizabeth II Diamond Jubilee award.
21. Yvette has frequently contemplated quitting but is financially dependent on her employment with the Government of Canada.
22. The harassment and dismissal of her complaints have taken a serious toll on Yvette's physical and mental health, and she has experienced significant depression as a result.

#### **D. LETITIA WELLS**

23. The representative plaintiff, Letitia Wells ("**Letitia**"), is a Blackfoot Aboriginal Woman from the Traditional Treaty 7 Territory, who lives in Calgary Alberta.
24. Letitia is a single mother of two. Furthermore, at the time of the incidents highlighted in this document, Letitia was a full time student at the University of Calgary, whilst still working 30 hours a week at the IOGC.
25. Letitia is a domestic abuse survivor who experiences ongoing trauma as a result. Letitia is prone to flashback events in the face of triggering events, a reality that was known to her employer at the IOGC.
26. Letitia began her employment with IOGC in September of 2015 and lost her contract in 2020 for what she believes to be retaliation for speaking up about her experiences of harassment at the IOGC.
27. Letitia has been victimized with threats of having to repay her wages retroactively due to mistakes made by IOGC and through no fault of her own.
28. Letitia has frequently had her intelligence questioned, and believes she was targeted as an Aboriginal Woman.
29. Letitia has been the victim of microaggressions, belittling physical gestures, and has overheard racist language at the IOGC.
30. Letitia has been singled out as a victim of aggressive micromanagement. She was repeatedly targeted for "stealing the company's time" for socializing and taking infrequent breaks. Her breaks and socialization was well within an objectively

understood “normal” amount of break time during a work day and such normal behaviour went without comments when exhibited by others.

31. Letitia has been presented with vague threats as a result of these breaks, including that “someone” has been watching her, and that she could be punished by law.
32. Furthermore, Letitia was told, in or about 2019, that she owes backpay of 0.5 per day going back almost 3 years to 2017 as a result. When Letitia became upset during this meeting, she was told that she must be upset because she was mourning the loss of a close family relative.
33. After this meeting, Letitia went home to her children and once they went to sleep, she was so overwhelmed with emotions that she cried, vomited, and couldn’t eat or sleep all night.
34. On another occasion, Letitia experienced a trauma flashback when her supervisor aggressively grabbed her arm in an effort to physically remove her from her cubical to have a private meeting in a board room. Prior to being physically grabbed, she was asking her supervisor to leave her cubical and was crying with her head facing down towards her desk. The supervisor who assaulted her was well aware of Letitia’s experience as a domestic violence survivor and how it impacted her.
35. During this experience, Letitia experienced severe flashbacks to her past trauma. She began to cry, and resort to the techniques taught to her by her counsellor when she is in trauma, that is, she braced herself into a butterfly position, and tapped her feet continuously. She felt as if she was going to have a heart attack because her heart was pounding and her chest hurt.
36. An unofficial complaint about this incident and the surrounding harassment she experienced has resulted in no meaningful change occurring to prevent such activities from re-occurring. In fact, during her Human Resources meeting about the incident, the Human Resources Manager appeared agitated at Letitia’s complaints and stated “I just cannot believe you because you’re sitting across the CEO crying your eyes out.”
37. A complaint was launched by the CEO on January 07, 2020 regarding the harassment Letitia was experiencing. On January 13, 2020 Letitia was demoted from her position as an acting Land Analyst. Letitia was demoted as retaliation for filing a complaint.
38. Letitia was denied promotions because she resisted sexual advancements by the CEO and Former Director of IOGC.

39. Letitia felt unsafe at work and believes that her supervisors were a danger to her.
40. The assault, ongoing harassment, and dismissal of her complaints have taken a serious toll on Letitia's health, and she has suffered serious mental health consequences, including suicidal ideation as a result.
41. Due to the foregoing, Letitia left on sick leave until the ending of her contract in March 2020. Letitia's was terminated thereafter with no reason indicated.

## **E. DISCRIMINATION**

42. The Representative Plaintiffs have led a grassroots effort to collect information regarding the widespread systemic discrimination at the Indigenous Ministries.
43. All respondents to Yvette's requests for information (collectively the "**Respondents**"), have all been either Female, Aboriginal or both.
44. Dan Kumpf is indicated by many to be a widespread harasser.
45. Racist jokes or language are frequently overheard at the Indigenous Ministries.
46. Microaggressions against indigenous employees are commonplace.
47. Certain Indigenous identity symbols were prohibited by Directors. In fact, one employee has been told to "leave her status at the door."
48. Indigenous practices and cultural methods of conflict resolution are denied to employees.
49. Formal harassment complaints have been assessed without any meaningful ameliorative attempts to rectify the problems. Some Respondents have been reprimanded for filing these complaints.
50. Supervisors have directed abusive and aggressive verbal behaviour toward indigenous Elders who were trying to resolve conflict between the Employees and the Directors.
51. Widespread harassment and discrimination has led many Indigenous employees to take leaves of absence to deal with the resulting stress.
52. Highly skilled and competent Indigenous employees have left the Indigenous Ministries as a direct result of the systematic racism.
53. The widespread discrimination has created an environment where indigenous employees are conditioned to feel as if they are "less than" the non-Indigenous employees.

54. The ongoing and widespread discrimination, coupled with the threats of retaliation and the inadequacy of investigative or remediate efforts, has led to a climate of fear and intimidation amongst the workforce.
55. The harassment, differentiating treatment, and retaliation has worked to exacerbate existing disadvantage in the workplace and in society.
56. As a result of the systemic discrimination, the Government of Canada's has experienced a loss of skilled and dedicated Aboriginal Employees. This exodus of Indigenous talent is damaging to both the effective functioning of the Indigenous Ministries, and to Canada's continuing effort for reconciliation with First Nation peoples.

#### **F. PARTICULARS OF DEFENDANT'S BREACHES**

57. The Defendant owed the class a duty of care to Class Members which includes, but is not limited to:
  - a. Properly and effectively supervising the workplace and the conduct of staff to ensure that employees would not suffer discriminatory conduct, harassment, or be subjected to racist language.
  - b. Implementing and enforcing standards of conduct in the workplace to ensure that the wellbeing and mental health of employees are reasonably protected and that the workplace is free from systemic racism and sexism.
  - c. Reviewing complaints with an objective, impartial, and sincere effort to ameliorating the wrongdoing complained of;
  - d. Enforcing appropriate disciplinary and remedial proceedings when wrongdoing was discovered;
  - e. Fostering and promoting the hiring and promotion of qualified Indigenous Peoples for jobs within the Indigenous ministries;
  - f. Preventing retaliatory actions from being taken when faced with an internal complaint about discriminatory conduct or harassment;
  - g. Using reasonable care to ensure that the workplace was free of discrimination, harassment, and derogatory language.
58. The Defendant breached their contractual duty to Class Members to maintain a workplace that is safe and free of harassment.
59. The Defendant breached s 15(1) of the Canadian *Charter of Human Rights* [*Charter*] through discriminatory harassment which directly and adversely affects Aboriginal and female workers.

60. These infringements of s 15(1) cannot be justified pursuant to the criteria set out under s 1 of the *Charter*, the burden of proof which lies on the Defendants.
61. The Defendant breached s 7(b) of the *Canadian Human Rights Act* [CHRA], by adversely differentiating against employees based on their Indigeneity and Gender status.
62. The Defendant breached s 9(1)(c) of the *CHRA* by limiting advancement opportunities within the Indigenous Ministries based on employee's Indigeneity and Gender status.
63. The Defendant breached s 14(1)(c) of the *CHRA* as a result of the harassment on prohibited grounds of gender, race, colour, and ancestry.
64. The Defendant breached s 14.1 of the *CHRA* by retaliating against employees who launched formal complaints as a result of the discrimination they faced in the workplace.
65. None of the exceptions to discrimination found in s 15(1) of the *CHRA* are present, the burden of which is on the Defendant to demonstrate.
66. The Defendant is vicariously liable for all acts by its employees, including discriminatory acts.

**G. DAMAGES SUFFERED BY CLASS MEMBERS**

67. As a consequence of the negligence, breach of the *Charter*, breach of contractual duties, and breach of the *CHRA* by the Defendants and its agents for whom the Defendant is vicariously liable, Class members suffered loss, injury, and damages including:
  - a. Development of mental illnesses, including substance abuse;
  - b. Exacerbation of mental illnesses, including substance abuse;
  - c. Emotional suffering;
  - d. Psychological suffering, including suicidal ideations;
  - e. Impairment of the capacity to function in the workplace and impairment in the capacity to earn income;
  - f. Impairment to perceptions of self-worth and cultural validity;
  - g. Internalization of discriminatory attitudes and practices among victims;
  - h. Pain and suffering;
  - i. Impairment to earning capacity;

- j. Loss of career advancement opportunities.

**H. RELIEF SOUGHT**

68. The Plaintiff seeks the following relief

- a. An Order certifying this proceeding as a Class Proceeding and appointing the Plaintiff as the Representative Plaintiff for the Class;
- b. Damages and such other remedy as the Court may consider just and appropriate pursuant to Section 24 of the Canadian *Charter of Rights and Freedoms*;
- c. Damages for breach of the Canadian *Human Rights Act*;
- d. Damages for negligence;
- e. Damages for breach of contract;
- f. Aggravated, punitive, and/or exemplary damages in the amount of \$25 Million;
- g. Interest;
- h. Costs; and
- i. Such further and other relief as this Honourable Court deems just.

The plaintiff proposes that this action be tried at Calgary, Alberta.

September 14, 2021



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MATHEW J.N. FARRELL

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