

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-17-080425-138

SUPERIOR COURT
(Civil Division)

LANCE REGAN,

Plaintiff

- vs. -

ATTORNEY GENERAL OF CANADA,

[...]

Defendants

AMENDED MOTION TO INSTITUTE PROCEEDINGS

IN SUPPORT OF HIS CLAIM, PLAINTIFF RESPECTFULLY DECLARES AS FOLLOWS:

1. Plaintiff was born on July 28, 1987;
2. Plaintiff has been incarcerated at the Regional Reception Centre – Special Handling Unit (hereinafter the “SHU”), a maximum security facility operated by Correctional Service Canada (hereinafter the “C.S.C.”) since approximately December 2011;
3. While incarcerated at the SHU, Plaintiff has suffered physical and mental abuses from prison officers;
4. Aside from the systematic abuses that Plaintiff has had to endure, there have been four (4) major incidents of harassment and discrimination that all occurred in the same one year period:
 - a. The Pipe Ceremony incident (racial discrimination) on October 28, 2012;
 - b. The frisk incident (sexual harassment) on November 15, 2012;
 - c. The dinner service incident (harassment and false charges) on November 25, 2012;
 - d. The Oleoresin Capsicum spray (hereinafter the OC spray) incident (abusive use of force and torture) on December 17, 2012;

- PIPE CEREMONY INCIDENT (RACIAL DISCRIMINATION) -

5. On or about October 24, 2012, Plaintiff's Brother passed away;
6. On October 28, 2012, Plaintiff requested to see an Elder for a Pipe Ceremony, as appears on Inmate's Request produced herewith as **Exhibit P-2**, which is a Native grieving ritual;

7. On November 2, 2012, having received no news from the Elder, Plaintiff asked an officer ("Officer A") patrolling on his range to call the Elder for him;
8. Officer A was not wearing a name tag, contrary to article 21 and 29 of *Commissioner's Directive 351-1: Uniforms, Dress Code and Scale of Issue*;
9. It is common practice in the SHU for the Correctional Officers to not wear their name tags;
10. Officer A refused to call the Elder, and dismissively told Plaintiff to put in a request, then said to Plaintiff: "I don't care about savage", which is a violation of article 12 of *Commissioner's Directive 060-1: Code of Discipline*;
11. Officer A then walked away saying something in French, of which Plaintiff only understood, "l'indien";
12. On November 4, 2012, Plaintiff issued a First Level Grievance Presentation, produced herewith as **Exhibit P-3**, with respect to said events. The said Grievance was later denied as no guard admitted to being disrespectful towards him, and no further action was taken with respect to this incident;
13. On November 15, 2012, Plaintiff issued another Inmate's Request, produced herewith as **Exhibit P-4**, to see the Elder to conduct a Pipe Ceremony;
14. On November 21, 2012, Plaintiff's Inmate Request was returned to Plaintiff with a response informing him that his request for the pipe ceremony was refused because he was considered a security risk;
15. On the same day, Plaintiff issued an Offender Complaint Presentation, produced herewith as **Exhibit P-5**, in which he explains his disagreement with the C.S.C. decision to not grant him the Pipe Ceremony for the following reasons:
 - a. Plaintiff has not been involved in any serious incidents since being admitted to the SHU;
 - b. Plaintiff has been polite and cooperative since being admitted to the SHU even though many of Plaintiff's personal items disappeared upon his transfer from Edmonton;
 - c. Prior to his transfer to the SHU, Plaintiff's previous Parole Officer, Asar Bacchus stated the Plaintiff was making very positive changes during Plaintiff's National Advisory Committee as seen in the video of Plaintiff's National Advisory Committee Meeting to be produced as **Exhibit P-38**;
 - d. Plaintiff reacted in a very calm and controlled manner when he was called a "savage";

16. On November 29, 2013, Analyst Andrée Ayotte issued a First Level Offender Grievance Response, produced herewith as **Exhibit P-6**, in which he denies all of the claims in Plaintiff's First Level Grievance;
17. On December 6, 2013, Plaintiff issued a Second Level Offender Grievance Presentation, produced herewith as **Exhibit P-7** in which he underlines the following issues:
 - a. Andrée Ayotte states in his Response that pursuant to Plaintiff's Grievance, the Intelligence Security Officer (I.S.O.), Yves Whitton, attempted to meet with Plaintiff, however Plaintiff refused to meet with him. Within the General Population of inmates, it is known that talking to an I.S.O. can result in being a target of physical violence;
 - b. Andrée Ayotte's Response does not address the issue of Correctional Officers not wearing their name tags;
 - c. Plaintiff was continuously obstructed from seeing the elder until November 14, 2012, when he was eventually able to see the elder but was not allowed to conduct a pipe ceremony;
18. On January 30, 2013, analyst Ryan Quance issued a Second Level Offender Grievance Response produced herewith as **Exhibit P-8**, in which he denies all of Plaintiff's Grievances;
19. During February 2013, Plaintiff's Uncle passed away. Plaintiff requested once again a Pipe Ceremony that was denied;
20. About May 2013, a very close family friend of Plaintiff's passed away. Plaintiff again requested a pipe ceremony, which was once more denied;
21. Plaintiff was therefore forced to grieve the passing of people close to him alone in his cell, without spiritual closure;
22. The SHU has previously allowed known members of the Indian Posse Gang, who have a history of murder and assaulting prison officers, to perform the same Pipe Ceremony. Moreover, the members were allowed to perform the ritual together in an assembly;
23. The claim that Plaintiff is a security threat therefore appears to be a simple pretext to deny Plaintiff this important ceremony;

- FRISK INCIDENT (SEXUAL HARASSMENT) -

24. On November 15, 2012, Officer François Roussille performed a routine frisk search on Plaintiff. During said frisk search, Officer Roussille squeezed Plaintiff's shoulder muscles. Plaintiff complained, saying, "This is a frisk, not a massage," after which Officer Roussille pressed his body against Plaintiff's from behind and hugged Plaintiff around the stomach area. Plaintiff could feel Officer Roussille's penis against his buttocks.

Officer Roussille then resumed the frisk search, squeezed Plaintiff's inner thighs and patted Plaintiff along the leg until Officer Roussille's fingers touched Plaintiff's scrotum;

25. During said frisk search, other officers were present, speaking in French to each other and laughing at the scene;
26. Plaintiff felt powerless and humiliated by this treatment, but still remained calm and did not react violently;
27. The next day on November 16, 2012, Plaintiff issued a First Level Grievance with respect to Officer Roussille's sexual harassment produced herewith as **Exhibit P-9** and an Inmate's Request, produced herewith as **Exhibit P-10**, to obtain the video footage of the incident from the camera that oversees near the Common Room where the sexual harassment occurred;
28. On November 28, 2012, Intelligence Security Officer (I.S.O.) Yves Whittom, who was investigating the sexual harassment grievance, approached Plaintiff's cell and loudly said to Plaintiff: "The police want to speak to you about pressing charges on Roussille! If you want to receive the video footage of the search, you will have to press charges, if you don't, I will erase the video footage" within earshot of other inmates. Plaintiff subsequently refused to meet with officer Whittom privately. It is an understood rule within the prison's general population that speaking with an I.S.O. can result in physical violence. Officer Whittom could not have been unaware of this custom;
29. Officer Whittom's actions negligently, recklessly, or purposefully jeopardized Plaintiff's safety in the prison community. This was an intimidation tactic to prevent Plaintiff from talking;
30. Officer Whittom's actions placed Plaintiff in a situation in which he was obliged to choose between his own personal safety in the prison and preserving the video footage of the sexual assault he was subject to;
31. On December 4, 2012, analyst Andrée Ayotte issued a brief, incomplete and biased Offender Grievance Response to Plaintiff's First Level Grievance as appears on Plaintiff's **Exhibit P-11** produced herewith. The following deficiencies should be noted;
 - a. In Andrée Ayotte's Offender Grievance Response, he states that Plaintiff "refused to meet with him (Mr. Yves Whittom) in a private cubicle at the SHU." This is a skewed and incomplete version of what actually occurred for the above-mentioned reasons;
 - b. There is no mention that Andrée Ayotte made any effort to speak with the other officers that were present during the sexual harassment even though he admits that other officers were present during this incident;
 - c. Andrée Ayotte does not acknowledge or address the fact that Plaintiff was "hugged" from behind and that the officer was "squeezing" his thighs instead of performing the pat down in accordance with the Corrections and Conditional Release Regulations (C.C.R.R.);
 - d. Andrée Ayotte does not address the fact that in accordance with article 9 of

Commissioner's Directive 081-1, Offender Complaints and Grievances, the video footage of the sexual harassment was not preserved, even though Plaintiff had issued an Inmates Request for said video footage on the same day that the sexual harassment occurred;

- e. Andrée Ayotte states that Officer Roussille denies laughing out loud during the frisk search. However, in the Plaintiff's Grievance, he alleges that it was the other officers present that were laughing and encouraging the sexual harassment;
 - f. The video footage of the incident was not examined. In fact, it was erased;
 - g. Andrée Ayotte's Offender Grievance Response was not thorough;
32. On December 14, 2012, Plaintiff issued a Second Level Offender Grievance Presentation, as appears in Plaintiff's **Exhibit P-12** produced herewith, in response to Andrée Ayotte's Offender Grievance Response for the above-mentioned reasons;
33. On January 30, 2013, a Second Level Offender Grievance Response was issued by Analyst Ryan Quance as appears in Plaintiff's **Exhibit P-13** produced herewith in which Plaintiff's entire Second Level Offender Grievance Presentation is denied on the following grounds:
- a. Analyst Ryan Quance justifies not using the video footage under the pretext that video recording cannot be used as a means for monitoring employee performance in accordance with article 9 of *Commissioner Directives 568-8: Authority for Use of Surveillance Equipment*, even though article 13 of the very same *Commissioner's Directive* obliges the Institutional Head to retain video recordings because it is a potential piece of evidence in an investigation;
 - b. Furthermore, the video recording was not being used for "monitoring employee performance", it was to be used in the context of an investigation concerning sexual harassment;
 - c. With respect to the preservation of the video footage of the incident, Ryan Quance states in paragraph 12 of his Second Level Offender Grievance Response that, "The plan developed by the Institution for analysing your grievance did not necessitate the revision of the video footage. As such, considering the video footage was not 'used in the analysis' of your grievance, Commissioner's Directive 081 did not require its conservation. This part of your grievance is denied." In other words, even though there was video footage of the incident of sexual harassment, it was decided that the video footage was not to be used in the analysis of the grievance. Instead, the C.S.C. investigator only considered the testimony of the officer that was accused of sexual harassment thereby effectively and purposefully destroying the best evidence available;
 - d. Furthermore, article 9 of *Commissioner Directive 081: Offender Complaints and Grievances* states that, "The decision maker will ensure that any materials or documentation, including audio and video tapes, that are used in the analysis of a complaint or grievance, are protected and available for review in the event of a

subsequent submission by the grievor or an application for judicial review of the third-level decision. Therefore, by not using the video recording during the initial investigation, the decision maker used this this loophole to justify erasing the video footage of the sexual harassment;

- e. Analyst Ryan Quance reiterates that the onus is on the Plaintiff to prove the allegation concerning the visit from the S.I.O., loudly saying to Plaintiff that the police want to speak to him. However, Plaintiff is a prisoner and did not have access to any other means to prove his allegations, except for the video recordings which the prison is withholding and/or erasing;
34. On February 18, 2013, Plaintiff issued a Third Level Offender Grievance Presentation, as appears on **Exhibit P-14** produced herewith, for the following reasons:
- a. Even though the Second Level Response is dated January 30, 2013, Plaintiff only received it February 15, 2013. In accordance with procedural delays, this only gave Plaintiff four days to file a Third Level Grievance. Evidently, the institution was systematically withholding responses and trying to discourage Plaintiff from claiming his rights;
 - b. None of the other officers that were present during the sexual harassment were interviewed or questioned, nor was the video recording examined;
 - c. Plaintiff is unsatisfied with the allegations contained in paragraph 11 of the Second Level Response because it shows how Correctional Services Canada will use every procedural means to justify deleting the video footage of the sexual harassment, even though plaintiff had made requests to obtain said video footage;
 - d. Plaintiff states that Correctional Officer Roussille conducted another inappropriate frisk search, in a very sexual manner, on Plaintiff on February 2, 2013;
35. On February 2, 2013, Plaintiff issued an Inmate's Request for the video recording for the afternoon activity movement on 4 Block during the hours of 1:15 PM and 1:45 PM, produced herewith as **Exhibit P-15**, where Plaintiff was sexually harassed for a second time;
36. On February 12, 2013, Plaintiff received a letter from C.S.C., produced herewith as **Exhibit P-16**, stating that they were unable to find the video recording of the second sexual harassment incident;
37. On February 8, 2013, Plaintiff received a response from the S.I.O. in which he states that Plaintiff refused to meet with him for the same afore-mentioned reasons;
38. Plaintiff suffers from stress and anguish, as he constantly fears to be frisk searched by Officer Roussille, against whom he has issued a previous sexual harassment grievance and fears repercussions and retaliations without impunity;
39. Plaintiff never received video recordings from either incident of sexual harassment which

the Institutional Head is withholding because it proves Plaintiff's allegations;

- FALSE CHARGE AGAINST PLAINTIFF DURING DINNER SERVICE -

40. On November 25, 2012, during dinner service at around 4:10 PM, Plaintiff recognized the officer distributing the meals, Correctional Officer Thierry Ganeo, as one of the officers present when he was sexually assaulted on November 15, 2012;
41. Plaintiff said to the officer, "Hey, you were there during the search?", and Officer Ganeo immediately became visibly upset and replied, "Yeah, make a complaint. You're good at that";
42. Plaintiff told Officer Ganeo that the incident of November 15, 2012 was sexual harassment. Officer Ganeo became even more upset, and snatched Plaintiff's desert bag from the food tray he had just placed on Plaintiff's food slot and threw it back into the food cart;
43. Plaintiff asked Officer Ganeo, who was not wearing his name tag at the time, to identify himself, and Officer Ganeo refused to do so;
44. Officer Ganeo then swore at Plaintiff and told him that he would not be getting out for his shower and phone time that evening;
45. That evening, Plaintiff was not given his shower nor his telephone time;
46. Officer Ganeo subsequently issued a report in which he falsely alleged that Plaintiff attempted to grab him through the food slot;
47. That same day, Plaintiff issued an Inmate's Request, produced herewith as **Exhibit P-17**, to obtain the video footage of the dinner service during the hours of 4:00 PM and 5:20PM on 4 Block Range B in order for him to prove that he did not grab Officer Ganeo through the food slot;
48. Plaintiff also issued a First Level Grievance with respect to the dinner service incident produced herewith as **Exhibit P-18**;
49. In response to Plaintiff's Inmate's Request for the video footage of said incident, Correctional Service Canada was unable to find the video footage without any further explanation as appears in their letter dated December 14, 2013 produced herewith as **Exhibit P-19**;
50. On November 26, 2012, Plaintiff was placed in segregation for thirty (30) days following the report in which Plaintiff was falsely accused of trying to grab Officer Ganeo through his food slot on November 25, 2012;
51. On November 29, 2012, Plaintiff again submitted a request to obtain the video footage of the dinner service that on November 25, 2012 so he could prove his innocence. However, Correctional Services Canada refused to provide said video;
52. On December 11, 2012, Analyst Andrée Ayotte issued a brief, incomplete and biased Offender Grievance Response to Plaintiff's Level 1 Grievance as appears on Plaintiff's

Exhibit P-20 produced herewith. The following deficiencies should be pointed out;

- a. In Andrée Ayotte's Offender Grievance Response, he states that "According to our security records and witnesses, on November 25, 2012, you (Plaintiff) were involved in an incident where you tried to grab the arm of a Correctional Officer, namely, Mr. Ganeo, during the meal distribution." However, the video footage of this incident was never consulted nor preserved;
 - b. Andrée Ayotte does not address the fact that Correctional Officer Mr. Ganeo was not wearing his name tag, which is alleged in Plaintiff's First Level Grievance and is contrary to Commissioner's Directives, and that Mr. Ganeo refused to identify himself;
 - c. Andrée Ayotte states that "At a later time you (Plaintiff) received your supper through the food slot and were given a shower the next day." This is false, as Plaintiff never received his meal that day;
53. On December 19, 2012, Plaintiff issued a Second Level Offender Grievance Presentation, produced here with as **Exhibit P-21**, for the following reasons:
- a. The investigation was not thorough because the video recording was not examined;
 - b. There is no reference to that fact Officer Ganeo was not wearing his name tag;
 - c. Plaintiff was not given supper nor did he receive a shower as stated in Andrée Ayotte's Grievance Response;
54. On February 9, 2013, Plaintiff issued another Inmate's Request, **Exhibit P-22** produced herewith, to inform the institution that they should communicate with his attorneys at *Kalman Samuels Q.C. & Associates* with respect to his Grievances and Inmate's Requests. At this point, Plaintiff had completely lost faith in the institutional grievance procedure because all the video footage pertinent to his multiple grievances and false charges had been erased by the staff of Correctional Services Canada and Plaintiff believed there was collusion between their employees;
55. On February 15, 2013, Plaintiff issued a Third Level Offender Grievance Presentation, produced herewith as **Exhibit P-23**, for the following reasons:
- a. Even though the second level response is dated January 30, 2013, Plaintiff only received it February 15, 2013. In accordance with procedural delays, this only gave Plaintiff four days to file a Third Level Grievance Presentation. Evidently, the institution was trying to discourage Plaintiff from claiming his rights;
 - b. The officer that accused Plaintiff of grabbing him during dinner service was never able to prove it, even though Plaintiff made an inmate's request to obtain video footage of this incident. Correctional Service Canada was never able to provide such video;
 - c. The video footage was not used in the original investigation. This video footage should have been reviewed before it was decided to put Plaintiff in thirty (30) day

segregation;

56. Eventually, this false charge was withdrawn on June 14, 2013, two days AFTER Plaintiff's Assessment, produced herein as **Exhibit P-24** , which determined Plaintiff's risk factors and whether he would have to stay in the SHU or return to Maximum Security, based on false charges;
57. Plaintiff was looking forward to leaving the SHU in September 2013, but as a result of this false charge, Plaintiff would have to remain at the SHU even if he were acquitted;
58. Plaintiff is extremely stressed by the harassment and abuse by prison officers, and suffers from anxiety and sleep troubles;
59. The staff of Correctional Service Canada are continuously issuing false charges on Plaintiff and withholding evidence;

- UNLAWFUL USE OF FORCE AND TORTURE -

60. On December 12, 2012, the SHU cut off the power in Plaintiff's cell for a duration of three (3) days for a minor disciplinary offence;
61. On December 15, 2012, after the announced three (3) days of punishment, the SHU failed to return the power to Plaintiff's cell;
62. On December 15, 16 and 17, 2012, Plaintiff repeatedly asked the SHU officers to turn the power back on in his cell to which they only answered "I'll check";
63. On December 17, 2012, during lunch service, Plaintiff placed his arm sideways in his rectangular food slot so that his forearm blocked the entry of the food tray and informed the Correctional Officer distributing the food that he is not going to grab him and only wants a reasonable reason as to why the electricity in his cell has not been turned back on;
64. Two officers were serving lunch at the time, namely Officer Debra McCarthy and Officer Nicolas Héту;
65. Officer McCarthy left and returned with other officers armed with Oleoresin Capsicum spray (pepper spray, hereinafter "OC spray") and a big black baton;
66. Officer Héту ordered Plaintiff to: "Move your arm, piece of shit!";
67. Officer McCarthy then said to the armed officers, "Attaquez-le!", after which these officers delivered five (5) heavy blows to Plaintiff's arm;
68. Officers then sprayed an entire can of OC spray into Plaintiff's cell through the food slot;
69. This situation did not require, nor had the Institutional Head authorized, the use of chemical agents contrary to article 3 of *Commissioner Directive 567-4: Use of Chemical and Inflammatory Agents*;

70. Furthermore, the manner in which the chemical agents were used was contrary to regulations and grossly abusive in that the whole cannister was used rather than a limited short blast;
71. This was not an emergency situation where a delay could result in bodily harm or jeopardize the security of the institution nor was there a risk of bodily harm considering that Plaintiff was inside his cell;
72. The staff of Correctional Services Canada did not act according to procedure and violated articles 1, 4, 10, 11, 12, 14 of *Commissioner Directive 567: Management of Security Incidents*;
73. Chemical agent was in no way necessary to bring the situation under control considering that Plaintiff was inside his cell, did not put his arm through the food slot and informed the correctional officer that he simply wanted an explanation as to why the electricity was not returned to his cell;
74. Correctional Officers have an obligation to film the use of chemical agents when the intervention is not urgent according to article 13 of *Commissioner Directive 567-4: Use of Chemical and Inflammatory Agents*;
75. Plaintiff was left in his cell while Officers McCarthy and Hétu resumed the food service;
76. The Correctional Officers failed, neglected or willfully chose not to film this incident;
77. Approximately fifteen (15) minutes after the aforementioned incident, officers returned with the Unit Manager and a video camera, and took Plaintiff for a decontamination shower;
78. The cannister was not subsequently weighed nor was the amount used documented in any way, thereby violating article 3 of *Commissioner Directive 567-4: Use of Chemical and Inflammatory Agents*;
79. Plaintiff was then brought to the nurse to have his injuries examined;
80. Plaintiff sustained severe injuries to his left forearm, from the elbow to the fingers. Plaintiff also had a swollen bruise on his forearm that was the size of a golf ball, and was unable to move his wrist normally. His left hand was lacerated and swollen, and there was a deep slice on Plaintiff's thumb with bleeding flesh protruding;
81. Plaintiff was subsequently returned to his cell, which had not been cleaned during his absence, and was still contaminated with blood and OC spray;
82. That same day, Plaintiff issued a Third Level Offender Grievance Presentation, produced herewith as **Exhibit P-25**, concerning the aforementioned facts;
83. Plaintiff was kept in his contaminated cell for five (5) days, which was five (5) days of torture, as will be testified by an international expert in prison standards and abuse. Plaintiff was confined in his cell for 23 hours each day;

84. During those five (5) days, Plaintiff had respiratory difficulties. He was hacking and coughing, and any time he moved, it would stir up fumes that worsened his hacking and coughing;
85. On December 20, 2012, Plaintiff issued an Inmate's Request, produced herewith as **Exhibit P-26**, informing Correctional Service Canada that since December 17, 2012, his cell was still contaminated with chemical residue from the OC spray and asking that his cell be decontaminated;
86. During those five (5) days, Plaintiff pleaded daily with guards to clean his cell, however the cell was finally cleaned on Friday, December 21, 2012;
87. Several fellow inmates were witnesses to these events;
88. On the same day as this incident, December 17, 2012, Unit Manager Luc Rhéaume issued an Inmate Offence Report and Notification of Charge, produced herewith as **Exhibit P-27**, in which he falsely claims that the entire incident was filmed;
89. On December 19, 2013, Plaintiff issued an Inmate's Request for the video recording of the Operational Camera that overlooks 1 Block which is where the incident took place;
90. Plaintiff never received said video recording;
91. On January 28, 2013, Correctional Service Canada sent a letter to Plaintiff, produced herewith as **Exhibit P-28**, admitting that the Correctional Officers should have used a portable camera prior to the use of force and that there will be an institutional review of the use of force and the video footage;
92. Furthermore, Correctional Service Canada admitted that this use of force should have been planned and not spontaneous, as appears on page 2 of the *Recours à la Force Devant Être Signalé, Liste de Contrôle après l'Incident* for the incident that occurred on December 17, 2013, produced herewith as **Exhibit P-29**
93. On February 26, 2013, Correctional Service Canada sent another letter to Plaintiff, produced herewith as **Exhibit P-30**, informing him that the video footage from Control Tower Operation Camera of the use of force incident will not be communicated because they are qualified for a total exemption pursuant to sections 22(1) (c) and 26 of the *Privacy Act*, however this same video recording was later used for Kim Duval's Institutional Review as admitted on page two her review dated August 6, 2013, produced herewith as **Exhibit P-39**;
94. In a letter dated the next day, February 27, 2013, produced herewith as **Exhibit P-31**, with respect to the video recording from the Hand Held Camera, Correctional Service Canada then states that "due to technical problems, it is impossible to watch the video.";
95. Subsequently, in a letter dated April 18, 2013 concerning the video recording with the hand held camera, produced herewith as **Exhibit P-32**, Correctional Service Canada states that "We have carefully searched and were unsuccessful in identifying any video regarding your (Plaintiff's) request.";
96. As appears in Marie Hagmann's (Manager of Offender Redress, Government of

Canada) email dated June 17, 2013, produced herein as **Exhibit P-33** and Kim Duval's *Résumé* of events dated August 6, 2013, produced herein as **Exhibit P-34**, the staff of Correctional Service Canada failed to act according to *Commissioner Directives* for the following reasons;

- a. There was use of physical force immediately after Plaintiff's peaceful protest notwithstanding that there was no urgency to physically attack Plaintiff;
 - b. As appears in the Statement/Observation Reports, produced herein *en liasse* as **Exhibit P-35**, the Correctional Officers did very little to attempt to negotiate peacefully with Plaintiff;
 - i. Said Reports are incomplete, the cases "Niveau" and "Poste" are left blank as underlined on page one of **Exhibit P-39**;
 - c. The use of the thirty six inch *Baton* was not reasonable because there was no risk of bodily harm considering that Plaintiff was inside his cell, in accordance with article 21 of *Commissioner's Directive 567: Management of Security Incidents*;
 - d. Analyst Kim Duval even suggests on page two of her institutional Review, **Exhibit P-39**, that Correctional Officer Jean-Samuel Giguère receive a proper training concerning the use of the *Baton*;
 - e. Moreover, as underlined on page three of Kim Duval'S Institutional Review, the video footage of the Use of Force Incident is cut at certain moments between the moment when the OC spray was used and when the Officers came back to Plaintiff's cell, this making it impossible to determine how long Plaintiff was left in his cell while it was contaminated by chemical agents;
97. Plaintiff was falsely accused of disobeying three direct orders as appears on the Disciplinary Charge Sheet, to be produced as **Exhibit-27**. This charge was withdrawn one month later;
98. However, the incident still appeared in Plaintiff's correctional file, and was used against him in his institutional review. This ensured that Plaintiff would have to remain at the SHU, given his alleged "history of violence";
99. As can be seen from the above incidents, the "history of violence" is maliciously and artificially inflated and exaggerated by the Correctional Officers and the Institution for the purpose of causing additional stress and harm to the Plaintiff;

- OTHER INCIDENTS -

100. On November 24, 2012, Plaintiff's toilet got clogged. Plaintiff repeatedly asked for a toilet plunger, as appears on Inmate's Request produced herewith as **Exhibit P-36** and First Level Grievance, **Exhibit P-18**. However, Correctional Service Canada staff neglected to provide one for days. Plaintiff was forced to urinate in his sink and defecate in a plastic bag;
101. On August 2, 2013, Plaintiff was served with a false charge by Officer Terry Ganeo who

falsely alleged that “inmate reported for threatening officer Pamela Poirier that he will cut her head off”, as appears on the Disciplinary Charge Sheet, to be produced as **Exhibit-27**;

102. On September 30, 2013, Plaintiff made a request under the *Privacy Act* for all the officer statements pertaining to the afore-mentioned false charge;
103. The C.S.C. could not find any records and was unable to find any statements by any officers to support the false charge issued by Officer Terry Ganeo as appears the letter from C.S.C. to Plaintiff produced herewith as **Exhibit P-41**;
104. On July 15, 2013, Plaintiff received a notice of a disciplinary offence, whereby he was accused of pressing the emergency button in the Common Room without reason at 10:36 a.m. on Sunday, July 14, 2013;
105. However, at that time, Plaintiff was on the telephone, at least 15 feet away from the emergency button;
106. On May 6, 2013, Plaintiff was outside in the yard when he developed a rash on his arms. Plaintiff has an allergy to the sun, and attempted to return inside the prison building. He pressed the emergency button on the door many times, however no one answered. Finally, Plaintiff threw a plastic water bottle at a window in order to attract the guards' attention;
107. Plaintiff was subsequently disciplined for the above actions, even though the SHU admitted that the door was not functioning adequately at the time on page four of Plaintiff's SCC DEC/CSC DEC form produced herewith as **Exhibit P-37**;
108. The same day, Plaintiff requested Benedryl, which is the only medication that helps alleviate his sun rashes. The nurse, Mr. Eric Beland, brought Plaintiff the medication in his bare hands. As Mr. Beland approached Plaintiff's cell, he dropped the pills on the floor, picked them up from the floor and offered them to Plaintiff. When Plaintiff objected, Mr. Beland told him that he was not going to get new pills, and Plaintiff could either take the pills or he could wait until the next morning to obtain new ones;
109. Plaintiff was obliged to take unsanitary medication;
110. Plaintiff felt degraded for being put in a situation where he had to beg for a plunger, urinate in the sink, take unsanitary medication and repeatedly face unfounded and completely false accusations from the Correctional Inspectors;
111. Correctional Service Canada staff have been obstructing Plaintiff's ability to defend his rights with respect to the present proceedings:
 - a. Emmanuel Bédard, a witness of the unlawful use of force incident was denied access to a Commissioner of Oath to swear in his Detailed Affidavit;
 - b. Correctional Service Canada Staff refused to supply Plaintiff with an English version of the *Criminal Code*;
112. The Government of Canada is liable because it fosters and tolerates a culture of

violations and abuse by Officers.;

113. Plaintiff witnessed many such examples involving other inmates. For example, on February 24th, 2014 an incident involving inmate Ricco Zanolli. He was peacefully protesting after being deprived of adequate clothing and bedding and five other inmates supported him in his protest;
114. Notwithstanding their cooperation and the complete absence of threat, Officers intervened and fired tear gas canisters into the cells. This use of force was excessive and illegal, and inmates were given no opportunity to comply with the orders given;
115. Inmates were then taken for a decontamination shower;
116. They were then walked back to their cells, wearing only their underwear with no mattresses, no bedding. Officers Left them in that state all night and all morning the next day until about 2:00p.m. They had to sleep on the cold cement floors;

DAMAGES

117. Plaintiff is entitled to damages totalling one million two hundred sixty-five thousand dollars (\$ 1,265,000), to be perfected at trial, which are detailed as follows:

a	Moral damages for being called a "savage"	\$ 5,000
b	Moral damages for being refused the pipe ceremonies	\$ 50,000
c	Moral damages for the sexual assaults by Officer François Roussille	\$ 50,000
d	Punitive damages for failing to adequately investigate the sexual assault grievance	\$ 100,000
e	Punitive damages for failing to adequately investigate the sexual assault grievance	\$ 100,000
f	Punitive damages for failing to adequately investigate the dinner service incident that occurred on November 25, 2012;	\$ 100,000
g	Moral damages for the arbitrary segregation following the false report on the November 25, 2012 incident	\$ 150,000
h	Physical and moral damages from the illegal use of force on December 17, 2012	\$ 10,000
i	Punitive damages for the illegal use of force on December 17, 2012	\$100,000
j	Physical and moral damages from being left in a contaminated cell for five (5) days	\$ 50,000
k	Punitive damages for being left in a contaminated cell for five (5) days	\$ 500,000
l	Moral and punitive damages for degrading treatments and systematic abuse of Plaintiff's rights and denial of the opportunity to seek real redress	\$ 50,000

	TOTAL \$ 1,265,000
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118. Defendant Agents François Roussille, Terry Ganeo, Debra McCarthy, Mr. Pavrette, M. Giguère and Officer A were the principal perpetrators of the abuse towards Plaintiff;
119. The Government of Canada (Correctional Service Canada) employs the above Defendants, as well as the other officers who were involved in the abuse towards Plaintiff;
120. The Government of Canada is jointly and severally liable with the Defendant officers and with the other unidentified officers;
121. The Government of Canada is liable for the punitive damages because it fosters and tolerates a culture of violation and abuse by officers followed by cover-ups;
122. The acts described in the foregoing were malicious, intentional, and unprofessional;
123. Plaintiff, through his undersigned attorneys, sent a Demand Letter, produced herewith as **Exhibit P-1**, but received no reply;
124. Plaintiff is incarcerated and has little funds to pay for his attorney fees, whereas the Attorney General of Canada has virtually unlimited funds;
125. Plaintiff requires a provision for costs in the amount of sixty-five thousand dollars (\$65,000) in order to defend his rights and be adequately represented;

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

ALLOW the present action;
ORDER provision for costs for Plaintiff in the amount of sixty-five thousand dollars (\$65,000);
ORDER Defendant [...] to pay Plaintiff damages in the amount of one million two hundred sixty-five thousand dollars (\$1,265,000), the whole, with interests and the additional indemnity as provided for by law as of February 4, 2013;

THE WHOLE WITH COSTS.

COPIE CONFORME / TRUE COPY

Kalman Samuels Attorneys Inc
 KALMAN SAMUELS, Avocats - Attorneys, Inc.

MONTREAL, August 22nd, 2019

Kalman Samuels Attorneys Inc
 KALMAN SAMUELS Q.C. AND ASSOCIATES,
 Attorneys for Plaintiff

Stagiaire Kalman Samuels

From: Stagiaire Kalman Samuels
Sent: 22 août 2019 11:10
To: eric.lafreniere@justice.gc.ca
Subject: Notification: 500-17-080425-138
Attachments: Amended motion 2019-08-22.pdf

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

N°: 500-17-080425-138

SUPERIOR COURT
(Civil Division)

LANCE REGAN,

Plaintiff

- VS -

ATTORNEY GENERAL OF CANADA,

Defendant;

Statement of Transmission of Service by E-mail

SENDER M^e Daniel Romano
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**CANADA
PROVINCE OF QUÉBEC**

NE: 500-17-080425-138

**SUPERIOR COURT
CIVIL DIVISION
DISTRICT OF MONTREAL**

LANCE REGAN,

Plaintiff;

-v.-

ATTORNEY GENERAL OF CANADA,

Defendant;

**AMENDED MOTION TO INSTITUTE
PROCEEDINGS**

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