

2024

Hfx. No.:

SUPREME COURT OF NOVA SCOTIA

Between:

JAMES WILLIAMS

Plaintiff

and

**THE ATTORNEY GENERAL OF NOVA SCOTIA, representing his
Majesty the King in Right of Nova Scotia**

Defendant

Proceeding under the *Class Proceedings Act*, S.N.S. 2007, c. 28

NOTICE OF ACTION

To: The Attorney General of Canada

Action has been started against you

The Plaintiff takes action against you.

The Plaintiff started the action by filing this notice with the court on the date certified by the Prothonotary.

The Plaintiff claims the relief described in the attached Statement of Claim. The claim is based on the grounds stated in the Statement of Claim.

Deadline for defending the action

To defend the action, you or your counsel must file a Notice of Defence with the Court no more than the following number of days after the day this notice of action is delivered to you:

- 15 days if delivery is made in Nova Scotia,
- 30 days if delivery is made elsewhere in Canada,
- 45 days if delivery is made anywhere else.

Judgment against you if you do not defend

The court may grant an order for the relief claimed without further notice, unless you file the Notice of Defence before the deadline.

You may demand notice of steps in the action

If you do not have a defence to the claim or you do not choose to defend it you may, if you wish to have further notice, file a demand for notice.

If you file a demand for notice, the plaintiff must notify you before obtaining an order for the relief claimed and, unless the court orders otherwise, you will be entitled to notice of each other step in the action.

Rule 57 – Action for Damages Under \$150,000.00

Civil Procedure Rule 57 limits pretrial and trial procedures in a defended action so it will be more economical. The Rule applies if the plaintiff states the action is within the Rule. Otherwise, the Rule does not apply, except as a possible basis for costs against the plaintiff.

This action is not within Rule 57.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the Prothonotary, located on 1815 Upper Water Street, Halifax, Nova Scotia, B3J 1S7 (telephone # 902-424-4900).

When you file a document you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information

The Plaintiff designate the following address:

PATH Legal
85 Queen Street
Halifax, NS B2Y 1G7
Tel: 902-706-4607
Fax: 902-600-9793

Documents delivered to this address are considered received by the Plaintiff on delivery.

Further contact information is available from the Prothonotary.

Proposed place of trial

The Plaintiff propose that, if you defend this action, the trial will be held in Halifax, Nova Scotia.

Signature

Signed this 4th day of March, 2024.

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Prothonotary's Certificate

I certify that this notice of action, including the attached statement of claim, was filed with the court on _____, 2024.

Prothonotary

STATEMENT OF CLAIM

Proceeding under the *Class Proceedings Act*, S.N.S. 2007, c. 28

I. Overview

1. The conditions for prisoners at Nova Scotia's correctional facilities are deplorable.
2. One particularly inhumane feature of the correctional facilities is the chronic staffing-related lockdowns that the Defendant imposes on prisoners in these facilities. These staffing-related lockdowns and the severe, continuing damage they cause to prisoners in the Correctional Facilities form the basis of this action.
3. A staffing-related "lockdown" of a correctional facility occurs when prisoners are locked in their cells due to shortages of prison staff. Staffing-related lockdowns have become a common feature of Nova Scotia's correctional facilities.
4. During lockdowns, prisoners are locked in small cells for hours, days, or weeks on end. Prisoners are subject to particularly harsh conditions, including deprivation of access to fresh air, showers, medical care, phone calls and legal counsel, often for many days at a time.
5. Lockdowns cause tremendous harm to an already vulnerable group. During lockdowns, prisoners suffer from a deprivation of healthcare, privacy, dignity, security, and hygiene that violate even the basic standards applicable to prisoners in the Correctional Facilities. These harms are more severe where prisoners live with a serious mental illness ("Mental Health Inmates", defined below). Lockdowns violate the basic human rights of the prisoners, including their rights and freedoms under sections 7 and 12 of the *Canadian Charter of Rights and Freedoms*.
6. These conditions and their severe, detrimental impact on prisoners persist due to the Defendant's negligence and breach of fiduciary duty in failing to appropriately staff the correctional facilities. The Defendant has had knowledge of lockdowns and their severely detrimental effects on prisoners for many years, and it is entirely within the Defendant's power and control to appropriately staff the

correctional facilities in a manner that would eliminate lockdowns caused by staff shortages. However, despite its knowledge, the Defendant has not taken any or sufficient action to ameliorate this problem and has caused irreparable and continuing harm to the plaintiff and class members.

II. Representative Plaintiff and Class

7. The Plaintiff, James Williams, is a resident of Central Nova Scotia Correctional Facility (“CNSCF”), located in Dartmouth, Nova Scotia.
8. Mr. Williams was charged and remanded into custody at CNSCF on or around September 2020.
9. While incarcerated at CNSCF, Mr. Williams has experienced egregious conditions and suffered the debilitating consequences of protracted lockdowns at this institution.
10. At CNSCF, Mr. Williams resides in a small, cement cell with a bed, desk, and toilet.
11. During lockdown, Mr. Williams was required to remain in this cell for extended periods of time with no access to the airing court or fresh air.
12. Mr. Williams has been in lockdown approximately 75% of the time due to understaffing at CNSCF. As a result of staffing-related lockdowns, Mr. Williams’s personal hygiene has suffered. Mr. Williams has had to repeatedly cancel visits with his family and lawyer. Mr. Williams has gone weeks without going outside and his mental health has suffered significantly as a result of the constant lockdowns.
13. For Mr. Williams and the class members, the lockdowns they experienced in the Correctional Facilities were traumatic events that has had a lasting psychological impact on their lives.
14. The Plaintiff seek to certify this action as a class proceeding and plead the *Class Proceedings Act*, S.N.S. 2007, c. 28, as amended, as providing the basis for such certification. The Plaintiff, as the Representative Plaintiff, does not have any

interest adverse to any of the members of the proposed class. The Plaintiff states that there is an identifiable class that would be fairly and adequately represented by him, that the Plaintiff's claims raise common issues, and that a class proceeding would be the preferable procedure for the resolution of these common issues.

15. The Plaintiff claims on behalf of himself and on behalf of the following class:

a. General Inmates

- i. All current and former inmates of correctional facilities as defined in the *Correctional Services Act*, SNS 2005, c 37 (the "Correctional Facilities") between 2018 and present who are or were remanded, serving a sentence, or otherwise imprisoned.

b. Inmates with a Serious Mental Illness

- i. All current and former Mental Health Inmates of Correctional Facilities between 2018 and present who are or were remanded, serving a sentence, or otherwise imprisoned;
- ii. who were diagnosed by a medical doctor with a mental disorder or a borderline personality disorder prior or during their incarceration, including the following disorders as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders:
 1. Schizophrenia (all sub-types);
 2. Delusional disorder;
 3. Schizophreniform disorder;
 4. Schizoaffective disorder;
 5. Brief psychotic disorder;
 6. Substance-induced psychotic disorder (excluding intoxications and withdrawal);
 7. Psychotic disorder not otherwise specified;
 8. Major depressive disorders;
 9. Bipolar disorder;
 10. Bipolar disorder I;

11. Neurocognitive disorders and/or Dementia and Amnestic and Other Cognitive Disorders;
 12. Post-Traumatic Stress Disorder;
 13. Obsessive Compulsive Disorder; or
 14. Borderline Personality Disorder; and
- iii. who reported such a diagnosis and suffering to the Defendant before or during their incarceration.

III. Defendant

16. The defendant, the Attorney General of Nova Scotia, representing his Majesty the King in Right of the Province of Nova Scotia, at all times material and relevant to this proceeding, was the operator, occupier, and maintainer of provincial corrections facilities in Nova Scotia, including the Central Nova Scotia Correctional Facility, the Cape Breton Correctional Facility, the Northeast Nova Scotia Correctional Facility, and the Southwest Nova Scotia Correctional Facility. All agencies, including but not limited to the Correctional Services division of the Department of Justice, will be referred to as the “Defendant” and is deemed to include all its contractors, sub-contractors, agents, servants, employees, and appointees.
17. Correctional Facilities includes all correctional facilities pursuant to the *Correctional Services Act*, SNS 2005, c 37 (the “*Act*”).
18. In accordance with the *Act* the Defendant is responsible for:
 - a. supervising the detention of the prisoners detained in the Correctional Facilities;
 - b. providing for the custody of prisoners detained in the Correctional Facilities; and
 - c. establishing, maintaining and operating the Correctional Facilities.
19. In accordance with the *Act*, the superintendent of a Correctional Facility is responsible for:
 - a. The implementation of policies and procedures;

- b. The authorization and issuance of standard operating procedures;
 - c. The authorization and issuance of post orders;
 - d. Ensuring that offenders are informed of their rights, responsibilities, and privileges while in custody;
 - e. Establishing rules governing the conduct and activity of prisoners; and
 - f. Ensuring that employees are informed of their duties, obligations, and expectations of their conduct.
20. The Correctional Facilities are located across Nova Scotia. At all material times, the Defendant, through and with its agents, servants, and employees, owned and was responsible for the operation, funding and supervision of the Correctional Facilities. The Correctional Facilities are under the sole jurisdiction and control of, and were operated by, the Defendant. The Defendant retains and authorizes servants, agents, representatives, and employees to operate the Correctional Facilities and gives instructions to such servants, agents, representatives, and employees as to the manner in which the Correctional Facilities are to function and operate. The Defendant or its agents, servants and employees also discipline and terminate employees that staff the Correctional Facilities.
21. At all material times, it was within the control of the Defendant to appropriately staff the Correctional Facilities to eliminate lockdowns caused by staffing shortages. The Defendant has knowledge of the number of people required to staff the Correctional Facilities to operate without staffing-related lockdowns and it was within their control to ensure that sufficient staff was available. The Defendant failed to fulfill its duties.

IV. Lockdowns

22. The Correctional Facilities house prisoners who are remanded, who are serving sentences of up to two years less a day, or who are otherwise incarcerated.
23. Remanded prisoners are prisoners who have been charged with crimes but have not been convicted. Prisoners on remand can spend weeks, months and even years in the Correctional Facilities awaiting trials or other proceedings. Many remanded

prisoners will be found not guilty of their crimes but will still have experienced abhorrent conditions at the Correctional Facilities. All remanded prisoners are innocent until proven guilty at trial but are nevertheless unduly punished because of the sub-standard conditions of confinement at the Correctional Facilities.

24. Prisoners in the Correctional Facilities are entitled to spend time outside of their cells. During this time, prisoners are entitled to obtain appropriate health care including visits with doctors and have visits with their families. Prisoners are entitled to regular access to showers and other means to ensure personal hygiene in the Correctional Facilities. They are required to be provided access to an airing court in which they may get fresh air and exercise. Prisoners are also entitled to certain programs, including spiritual or religious programming. Finally, prisoners will also have access to a television, to read newspapers or other reading material, and may make phone calls.
25. None of the above entitlements are available to prisoners during lockdown. During lockdowns, prisoners must remain locked in their cells.
26. Lockdowns may be caused by staff absences. Where a Correctional Facility does not have enough staff, the Correctional Facility will be locked down.
27. Staffing absences cause the vast majority of lockdowns at the Correctional Facilities.
28. Lockdowns create egregious conditions for prisoners. During lockdowns, the impact to prisoners includes, *inter alia*:
 - a. being locked down limits prisoners from speaking or meeting with lawyers;
 - b. being locked down prevents prisoners from accessing showers and other facilities to maintain basic hygiene;
 - c. family visits are cancelled or are very limited during lockdowns;
 - d. access to medication is not consistent or non-existent;
 - e. medical appointments are cancelled, and there is a higher rate of prisoners' ailments;

- f. prisoners are required to clean their own cells, but during lockdowns there are delays in getting cleaning supplies to the prisoners and in getting laundry done, resulting in unhygienic conditions;
 - g. being locked down in a cell limits prisoners from getting in touch with family;
 - h. there is no prisoner programming running during lockdowns;
 - i. there is considerable and increased noise and banging on cell walls and other items during lockdowns, and it is difficult to sleep;
 - j. lockdowns cause violence between prisoners during the short periods between lockdowns;
 - k. there are an increased number of fights among prisoners as conditions worsen from lockdown;
 - l. during lockdown, there is very limited stimuli for prisoners, and as a result, lockdowns have a severely detrimental effect on the mental health of prisoners;
 - m. there is not enough light in prison cells;
 - n. meals are delayed during lockdowns;
 - o. prisoners' ability to maintain social and familial ties is curtailed;
 - p. there is limited access to reading materials;
 - q. religious programs are limited or denied during lockdowns; and
 - r. there is no opportunity to exercise, and prisoners cannot get any fresh air.
29. The conditions of detention during lockdowns resemble segregation or solitary confinement. In some ways they are worse. The periods of confinement for up to 24 hours a day are entirely unpredictable to the prisoner, both as to timing and length, which adds to their suffering.
30. The conditions of detention during lockdowns impact SMI Inmates differently and cause more severe harm to SMI Inmates than to other class members.
31. During lockdowns, the minimum standards for prisoners are curtailed, often for days or weeks on end. These conditions contribute to an unsafe, unhealthy, and dangerous environment for prisoners and violate their basic rights and freedoms.

V. Causes of Action

32. The Plaintiff pleads the following causes of action:
- a. Negligence;
 - b. Breach of Fiduciary Duty;
 - c. Breach of Section 7 Charter Right; and
 - d. Breach of Section 12 Charter Right

VI. Negligence

33. The Defendant has known about lockdowns caused by staff shortages at the Correctional Facilities and the deleterious effects of lockdowns on prisoners in the Correctional Facilities for many years. Notwithstanding this knowledge, the Defendant has failed to take sufficient steps, if any, to ameliorate or correct the problem.
34. Through its operation of the Correctional Facilities and its employment of correctional officers at the Correctional Facilities, the Defendant had direct knowledge of the lockdowns and their consequences on prisoners. The Defendant was aware of the minimum staffing levels required to operate the prisons without staffing related lockdowns and knew that these levels were not met. The Defendant was aware of repeated and chronic lockdowns along with the need for additional staff and better operating systems. The Defendant failed to act or take sufficient action.
35. Lockdowns caused by staffing shortages have also repeatedly been identified and condemned in judicial decisions for many years, and at least as early as 2018 in Nova Scotia. Justices of Nova Scotian courts have repeatedly identified the unacceptable frequency of lockdowns and the abhorrent conditions thereby inflicted upon prisoners.
36. However, notwithstanding its knowledge of these problems, the Defendant has refused to take sufficient, or any, action.

37. At all material times, the Defendant owed duties to the plaintiff and to the class members that include, but are not limited to, a non-delegable duty to protect prisoners' physical health, mental health, well-being and their non-derogable right to be free from torture, and to maintain minimum standards at the Correctional Facilities.
38. The harm suffered by the plaintiff and the class members was a reasonably foreseeable consequence of the Defendant's acts and omissions. The Defendant was the guardian of all prisoners. The legislation governing the relationship between the Defendant and prisoners informs the duty of care owed by the Defendant to the prisoners. At all material times, the actions of the Defendant had a direct impact on the plaintiff and class members. The Defendant is responsible for providing or causing to provide facilities, policies, standards, and programs appropriate for the care and custody of prisoners. In such circumstances, the risk of harm of the nature contemplated in this action is reasonably foreseeable.
39. The Executive Director's duties as set out in section 12 of the *Act* include:
 - a. the provision, administration and development of Correctional Facilities; and
 - b. the operations of Correctional Facilities.
40. Similarly, in accordance with the *Act*, the Defendant is responsible for the care, safety and custody of inmates.
41. The express words of the statute itself establish a special, close, and direct relationship between the Defendant and prisoners.
42. Finally, there was a direct and proximate relationship and specific interaction between each of the plaintiff and the class members and the Defendant, including but not limited to:
 - a. the daily interaction between the plaintiff and class members and the Defendant or its agents;
 - b. the close and direct supervisory relationship between the Defendant and the plaintiff and class members;

- c. the plaintiff and class members' complete reliance on the Defendant to satisfy their basic needs, including the necessities of life, safety, and comfort; and
 - d. the Defendant's maintenance of prisoner files.
43. The Defendant owed a duty of care to the plaintiff and class members, which included, but was not limited to:
- a. the construction, operation, maintenance, ownership, financing, administration, supervision, inspection, and auditing of the correctional facilities;
 - b. the operation, financing, administration, supervision, and auditing of the use of lockdowns;
 - c. the selection, control, training, supervision, and regulation of the designated operators and their employees, servants, officers, and agents, and for the care, control, and well-being of the prisoners;
 - d. to appropriately staff the Correctional Facilities;
 - e. to employ a sufficient number of staff to ensure that there were no lockdowns at the Correctional Facilities caused by understaffing;
 - f. to have in place appropriate policies and procedures to ensure that at all material times, the Correctional Facilities operated in manner such that the basic rights of prisoners were not denied;
 - g. to have in place appropriate policies and procedures to ensure that, at all material times, the Correctional Facilities were reasonably safe for prisoners;
 - h. to follow such policies and procedures at all material times;
 - i. to ensure access to adequate and appropriate medical and health services;
 - j. to ensure access to legal representation and advice;
 - k. to ensure the ability of the class members to maintain social and familial ties;
 - l. to ensure conditions of detention which safeguard the maintenance of order, and the safety and protection from violence;
 - m. to ensure access to programs, activities, and services, including but not limited to educational, vocational, remedial, moral, spiritual, social, health and exercise;
 - n. to ensure access to reading materials;

- o. to ensure appropriate sanitary requirements, including lighting, heating, ventilation, and cleanliness;
 - p. to ensure appropriate hygiene requirements, including regular access to showers;
 - q. to put in place a mechanism to collect information and monitor the impact of lockdowns on class members;
 - r. to respond adequately to complaints or recommendations which were made concerning lockdowns; and
 - s. to safeguard the physical and emotional needs of prisoners.
44. The Defendant knew or ought to have known of its duties described herein as a result of its unique position and expertise in caring for prisoners.
45. The Defendant breached the standard of care, on a class-wide systematic basis, in the following respects:
- a. failing to have appropriate staffing levels at the Correctional Facilities;
 - b. failing to employ a sufficient number of staff to ensure that there were no lockdowns at the Correctional Facilities caused by understaffing;
 - c. failing to follow or to have in place appropriate policies and procedures to ensure that at all material times, the Correctional Facilities operated in manner such that the basic rights of prisoners were not denied;
 - d. failing to follow or to have in place appropriate policies and procedures to ensure that at all material times, the Correctional Facilities were reasonably safe for prisoners;
 - e. failing to ensure access to adequate and appropriate medical and health services;
 - f. failing to ensure prisoners' access to legal representation and advice;
 - g. failing to ensure the ability of the class members to maintain social and familial ties;
 - h. failing to ensure conditions of detention which safeguard the maintenance of order, and the safety and protection from violence;

- i. failing to ensure access to programs, activities, and services, including but not limited to educational, vocational, remedial, spiritual, social, health, and exercise;
 - j. failing to ensure access to reading materials;
 - k. failing to ensure appropriate sanitary requirements, including lighting, heating, ventilation, and cleanliness;
 - l. failing to ensure access to appropriate hygiene requirements, including showers;
 - m. detracting from the ability of prisoners to maintain good mental and physical health;
 - n. failing to put in place a mechanism to collect information and monitor the impact of lockdowns on class members;
 - o. failing to respond adequately, or at all, to complaints or recommendations which were made concerning lockdowns; and
 - p. failing to safeguard the physical and emotional needs of prisoners.
46. These failures were systemic in nature and occurred across all the Correctional Facilities.

VII. Breach of Fiduciary Duty

47. The Defendant had a fiduciary relationship with the Plaintiff. The Defendant created, planned, established, operated, financed, supervised, controlled, and regulated the Plaintiff's conditions of confinement.
48. At all material times, the Plaintiff was within the knowledge, contemplation, power, or control of the Defendant and was subjected to the unilateral exercise of the Defendant's power or discretion. Incarcerated at CNSCF, the Plaintiff relied entirely on the Defendant to ensure that the conditions of his incarceration were safe and in accordance with the guiding principles for custodial conditions and least restrictive conditions of confinement. The Plaintiff was particularly vulnerable to the operational policies, decisions, practices, and actions of the Defendant.

49. By virtue of the relationship between the Plaintiff and the Defendant being one of trust, reliance and dependence, the Defendant owed a fiduciary obligation to ensure that the Plaintiff was treated fairly, safely, and in all other ways consistent with the obligations owed to a person under its care and control.
50. At all material times, the Defendant owed a fiduciary obligation to the Plaintiff to act in his best interest. The Plaintiff relied upon the Defendant, to his detriment, to fulfill its fiduciary obligations.
51. Through its servants, officers, employees, and agents (for which the Defendant is vicariously liable), the Defendant was in breach of its fiduciary duties to the Plaintiff. Particulars of these breaches include:
 - a. Using, managing, administering, and supervising Lockdowns;
 - b. Putting its own interests, and those of its employees, agents and other persons under its supervision, ahead of the interests of the Plaintiff;
 - c. Failing to safeguard the physical and emotional needs of the Plaintiff; and
 - d. Permitting cruel, unusual, and/or excessive treatments or punishments to be perpetrated against the Plaintiff.

VIII. Charter

52. The conditions particularized above violate basic human rights of the class members and, as such, constitute a violation of their rights and freedoms under Sections 7 and 12 of the *Canadian Charter of Rights and Freedoms* (the "*Charter*").
53. The conditions at the Correctional Facilities and the conduct of the Defendant violate the right of the plaintiff and class members to life, liberty and security of the person, contrary to section 7 of the *Charter*. The conditions under which the prisoners are detained engage the interests of liberty and security of the person. The frequent and lengthy staffing related lockdowns which are unpredictable to prisoners and the consequences of the lockdowns identified herein cause severe detrimental mental and physical effects on inmates.

54. The frequent and lengthy staffing related lockdowns at the Correctional Facilities constitute cruel, inhumane, and degrading treatment or punishment contrary to section 12 of the *Charter*. The frequency, duration, and severity of staffing related lockdowns and the adverse consequences of these lockdowns at the Correctional Facilities during the class period identified herein violate the rights of the plaintiff and class members to be held in custody in a humane and safe facility. This treatment is so excessive as to outrage standards of decency and is grossly disproportionate.
55. The frequent and lengthy nature of the lockdowns due to staffing inadequacies is arbitrary and is imposed without institutional justification.
56. In the circumstances, the plaintiff and the class members are entitled to monetary damages pursuant to section 24(1) of the *Charter* for violation of the class members' constitutional rights and freedoms to:
 - a. compensate them for their suffering and loss of dignity;
 - b. vindicate their fundamental rights; and
 - c. deter systemic violations of a similar nature.
57. The Defendant's breaches are not in accordance with principles of fundamental justice and therefore cannot be saved by section 1 of the *Charter*.

IX. Vicarious Liability

58. At all material times, the Defendant's employees, in their course of employment, were responsible for the placement, supervision, and care of the plaintiff and class members in their confinement.
59. The plaintiff pleads the doctrine of *respondeat superior* and states that the Defendant is vicariously liable for the actions of the Defendant's employees, representatives, and agents.

X. Damages

60. The Defendant knew, or ought to have known, that as a consequence of its operation of the Correctional Facilities, that the plaintiff and the class members would suffer significant physical and psychological damages as described below.
61. The plaintiff and the members of the class were traumatized by their experiences arising from their incarceration at the Correctional Facilities. As a result of the negligence, breach of fiduciary duty, and breach of the *Charter* rights, the plaintiff and the class members suffered and continue to suffer damages which include, but are not limited to the following:
 - a. physical and psychological harm;
 - b. exacerbation of psychological illness and/or the creation of new psychological illnesses;
 - c. exacerbation of physical illness and/or ailments and the creation of new physical illness and/or ailments;
 - d. pain and suffering;
 - e. an impaired ability to obtain and sustain employment, resulting either in lost or reduced income and ongoing loss of income;
 - f. a requirement for medical or psychological treatment and counselling;
 - g. an impaired ability to enjoy and participate in recreational, social, and employment activities; and
 - h. the loss of general enjoyment of life.
62. The above damages were and continue to be suffered by the plaintiff and the class generally. However, due to their particular conditions and vulnerabilities, SMI Inmates have and continue to suffer these damages more severely than other class members,
63. At all materials times, the Defendant had known, or ought to have known, and continues to know, that ongoing delay in failing to rectify the institutional failures at the Correctional Facilities would continue to aggravate and contribute to the class members' injuries and damages.

XI. Aggravated, Punitive, and Exemplary Damages

64. The high handed and callous conduct of the Defendant warrants the condemnation of this Honourable Court. The Defendant conducted its affairs with wanton and callous disregard for the plaintiff and class members' interests, safety, and well-being. In all the circumstances, the Defendant breached, and continues to breach, its fiduciary duty, and *Charter* duties owed to the plaintiff and the class members.
65. Over a long period of time, the plaintiff and the class members were treated in a manner that could foreseeably result in the damages suffered. The substandard conditions to which the plaintiff and the class members were exposed to grossly violated their rights and severely altered the paths of their lives.
66. In these circumstances, punitive damages are necessary to act as a deterrent to prevent such conduct in the future.

XII. Relief Sought

67. The Plaintiff repeats the foregoing paragraphs and seeks the following relief:
 - a. an order certifying this action as a class proceeding and appointing the plaintiff as representative plaintiff for the class and any appropriate subclass thereof;
 - b. a declaration that the Defendant is vicariously liable for the actions of the Defendant's agents and employees;
 - c. a declaration that the defendant breached its fiduciary and common law duties to the plaintiff and the class members;
 - d. a declaration that the defendant is liable to the plaintiff and the class members for the damages caused by its breach of fiduciary duty, negligence, and its violation of the plaintiff and class members' rights and freedoms set out in sections 7 and 12 of the *Canadian Charter of Rights and Freedoms* in respect of its failures relating to the funding, staffing, operation, management, administration, supervision, and control of the Correctional Facilities;
 - e. Damages or such other remedy as the Court may consider just an appropriate pursuant to section 24 of the *Canadian Charter of Rights and Freedoms*;

- f. General damages for pain and suffering;
- g. Special damages, the particulars of which will be delivered;
- h. Aggravated, punitive and/or exemplary damages;
- i. Pre-judgement interest pursuant to the *Judicature Act*;
- j. Costs and Disbursements, inclusive of any financing charges; and
- k. Such further and other relief as this Honourable Court deems just.

PLACE OF TRIAL: Halifax, Nova Scotia

DATED at Halifax, in the County of Halifax, Province of Nova Scotia this 4th day of March, 2024.

Michael Dull

Emma Arnold

Hanna Garson

Solicitors for the Plaintiff

TO: The Prothonotary
AND TO: The Attorney General of Nova Scotia
Its Solicitors or Agents