

Canadian Sexual Misconduct Class Action: Lessons Learned



Timeline

1998

 Dawn McIlmoyle (Thomson), Dee Brasseur, and Tracey Constable are featured in three cover stories in Maclean's, a Canadian magazine, with regard to their sexual assault experiences while serving in the Canadian Armed Forces (CAF)

2014

 Stéphanie Raymond's sexual assault related redress to the Chief of the Defence Staff (CDS) results in the CDS requesting Justice Marie Deschamps to complete a review of sexual misconduct in the CAF

2015

- **Deschamps Report** publishes 10 recommendations for CAF to address military sexual harassment and assault
- It's Just 700 (IJ700), a military sexual trauma Facebook based peer support group, is started by an impacted Veteran

2016

- **Merlo-Davidson** class action for harassment and discrimination of Royal Canadian Mounted Police (RCMP) and public service women is approved
 - \$100 Million settlement (2020)
- LGBT Purge class action is approved
 - \$145 Million settlement (2018)
- IJ700 helps to find potential class action plaintiffs

2017

- Heyder-Beattie class action for military related sexual misconduct is certified for sexual assault, sexual harassment, and/or discrimination based on sex, gender, or sexual orientation.
 - \$900 Million settlement (2019)

2019

- Final Settlement Agreement of Heyder-Beattie class action includes:
 - Restorative Engagement Program
 - Schedule "N"—Survivor Supports Consultations
 - Schedule "O"—Gender and Diversity Representation Consultations

2021

• IJ700 closes

Resources

CAF/DND Sexual Misconduct Class Action Final Settlement Agreement:

https://www.caf-dndsexualmisconductclassaction.ca/

Deschamps Report:

 https://www.canada.ca/en/department-national-defence/corporate/reportspublications/sexual-misbehaviour/external-review-2015.html

Merlo Davidson Settlement Agreement:

https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20211207/09-en.aspx

Schedule N – Survivor Support Consultation:

 https://www.canada.ca/en/department-national-defence/corporate/reportspublications/survivor-support-consultation-group-final-report/schedule-n-survivor-supportconsultations-summary-report.html

Schedule O – Gender Representation and Diversity Consultation:

 https://www.canada.ca/en/department-national-defence/corporate/reportspublications/schedule-o.html

Lessons Learned

Establish a supportive inclusive class member community

- It takes a village to do this work, but ideally with one leader
- Social media platforms can be very helpful
 - to "find" each other
 - o to support each other
 - to disseminate information publicly and privately
- Plaintiffs have extra unique pressures and need to be kept informed
- Class members need resources for self-care and to share with family, friends, employer, coworkers, and community groups

2 Learn from previous class actions in your own country and abroad

- In Canada, the RCMP women's Merlo Davidson and the LGBT Purge class actions set a precedent and offered a number of important lessons learned for the Heyder-Beattie class action
- Canada's experience can be a lesson learned for other militaries, and we continue to capture lessons learned after the court case approval

3 Learn how to effectively advocate

- To change anything in the military, you need to learn how to advocate
- To advocate for military change is political by definition, and requires learning how to best navigate the political system
- Allow class members to advocate for themselves
- Include diverse voices in the conversation

Select your lead law firm carefully

- Consider the pros/cons of a firm with class action expertise vs. employment law expertise
- Ensure that the firm has the resources to support a case of this size
- Ensure that the firm is like minded for end goals and priorities of class action
- Ensure that the plaintiffs are comfortable working with the firm

5 Define class members carefully

- Ensure that the definition used does not include certain class members unintentionally
- Ensure the diversity of lived experience voices in the initiation of the class action to prevent unintended harm

6 Integrate research into the process

• Include participatory trauma-informed research at all stages of the class action process, from preparatory phase, court proceedings, to final settlement agreement implementation

Ensure transparency and effective implementation

- Dissemination must be clearly mandated
- Actioning recommendations often require dedicated resources
- Ensure lived experience voices are included into the oversight mechanism put into place

This document is a summary of the virtual international colloquium on military sexual and other forms of abuse. View the colloquium via the following link: https://youtu.be/vAtjPxhhzPU
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