

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
 - 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

4 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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