

FEDERAL COURT
CERTIFIED CLASS PROCEEDING

BETWEEN:

**DENNIS MANUGE, RAYMOND TOTH, BETTY BROUSSE, BRENTON
MACDONALD, JEAN-FRANCOIS PELLETIER and DAVID WHITE**

Plaintiffs

-and-

HER MAJESTY THE QUEEN

Defendant

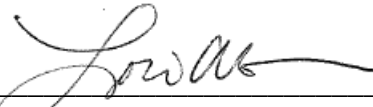
STATEMENT OF DEFENCE

1. The Defendant admits the allegations contained in paragraphs 2, 3, 4, 5, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 34, 36, 37, 39, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 of the Consolidated Statement of Claim. The Defendant admits paragraph 35, but says that 24 categories are identified in Schedule 3, not 25 categories, as alleged. The Defendant admits the class definition set out in paragraph 65 has been certified.
2. The Defendant denies the allegations contained in paragraphs 1, the second sentence of paragraph 6, paragraphs 8, 9, 10, 11, 12, 32, 33, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, and 52 of the Consolidated Statement of Claim.
3. The Defendant has no knowledge of the first sentence of paragraph 6 and of paragraph 7 of the Consolidated Statement of Claim.
4. As to the whole of the Consolidated Statement of Claim, and in particular paragraph 31, the Defendant says that in 2018, the Minister of Veterans Affairs issued a statement that, between 2003 and 2010, disability pension adjustment calculations did not accurately reflect a change to personal tax exemptions. Approximately 270,000 Veterans, RCMP members and their survivors are entitled to compensation for this adjustment. The Minister confirmed that retroactive payments would be made to ensure affected recipients received the compensation to which they were entitled and that Veterans Affairs Canada (“VAC”) had secured a source of funds of up to \$165 million for retroactive payments.

5. Corrective adjustments payments began in September 2019. As of April 2021, VAC had issued more than 108,000 payments totaling more than \$78 million to affected recipients or their estates, as the case may be. The average payment amount issued has been approximately \$719.57 per recipient.
6. As to paragraph 32 of the Consolidated Statement of Claim, the Defendant denies that the Nunavut income tax rate ought to have been used in the escalation calculation, as alleged. The Defendant denies that the Canada Employment Amount ought to have been included in the escalation calculation, as alleged. The Defendant denies that the Northern Resident Deduction (prescribed Zone A) ought to have been included in the escalation calculation, as alleged.
7. The Defendant denies that the Plaintiffs are entitled to damages, and/or restitution, and/or equitable compensation, and/or interest, and/or related loss, as alleged in paragraph 33 of the Consolidated Statement of Claim, or at all. Corrective payments are being provided to affected individuals and estates.
8. The Defendant denies errors in the calculation of annual CPI adjustments to disability awards under the *Veterans Well-Being Act* as alleged in paragraph 38 of the Consolidated Statement of Claim. The Defendant denies any underpayment to Veterans Affairs Canada Disability Award recipients and puts the Plaintiffs to the strict proof thereof.
9. In answer to paragraph 40 of the Consolidated Statement of Claim, the Defendant says the *Pension Act* provides for the annual adjustment of the basic pension. The annual adjustment of the basic pension affects or has affected certain benefits under related federal legislation, including disability pensions, disability awards and others. The Defendant admits the last sentence of paragraph 40.
10. As to paragraph 42 of the Consolidated Statement of Claim, the Defendant denies any negligence as alleged or at all, and puts the Plaintiffs to the strict proof thereof.
11. With respect to paragraph 43 of the Consolidated Statement of Claim, the Defendant denies any unjust enrichment. There was no enrichment and/or deprivation, as alleged or at all.
12. As to paragraph 44 of the Consolidated Statement of Claim, the Defendant denies an illegal assignment, charge, attachment, anticipation, commutation, or security pledge and puts the Plaintiffs to the strict proof thereof.

13. The Defendant denies the existence of a fiduciary relationship, as alleged in paragraphs 45-47 of the Consolidated Statement of Claim, or at all. The Plaintiffs have not pleaded the indicia of a fiduciary relationship, and the indicia of a fiduciary relationship are not present here.
14. The Defendant denies a breach of contract, as alleged in paragraphs 48-50 of the Consolidated Statement of Claim, or at all. There is no contractual relationship between Veterans Affairs Canada and VAC benefit recipients. The relationship between the parties is governed entirely by statute.
15. As to paragraph 51 of the Consolidated Statement of Claim, the Defendant denies that the facts as alleged give rise to a claim in waiver of tort. The Plaintiffs have not pleaded sufficient facts to support an election to waive the tort in these circumstances. Waiver of tort is not an independent cause of action.
16. As to paragraph 52 of the Consolidated Statement of Claim, the Defendant denies the Plaintiffs are entitled to an accounting or any of the other forms of relief sought in that paragraph, as alleged or at all.
17. The Defendant asks that the Consolidated Statement of Claim be dismissed.

DATED at the City of Halifax, in the Province of Nova Scotia, this 30th day of July, 2021.



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