

Legal Notice

**Were You Incarcerated in a Federal Institution in Québec between February 24th 2013 and the present?
Have you spent some time in solitary confinement?
A lawsuit may affect you. Please read this notice carefully**

WHAT IS THIS CASE ABOUT?

On January 13th 2017, the Superior Court of Quebec authorised Arlene Gallone to bring a class action in damages against **the Attorney General of Canada**, the “**Defendants**”) on behalf of the following persons:

Class members in prolonged solitary confinement

All persons held in “solitary confinement”, such as in administrative segregation but excluding disciplinary segregation, after February 24, 2013 for more than 72 consecutive hours, in a federal penitentiary situated in Quebec, including consecutive periods totalizing more than 72 hours separated by periods of less than 24 hours;

AND

Class members with mental health disorders

All persons held in “solitary confinement”, such as in administrative segregation but excluding disciplinary segregation, after February 24, 2013 in a federal penitentiary situated in Quebec who were, prior to or during “such solitary confinement”, diagnosed by a medical doctor either prior to or during such “solitary confinement” with an Axis I Disorder (excluding Substance Use Disorders), or Borderline Personality Disorder, who suffered from their disorder, in a manner described at Appendix A, and reported such prior to or during their stay in “solitary confinement”.

Appendix A:

- Significant impairment in judgment (including inability to make decisions; confusion; disorientation)

- Significant impairment in thinking (including constant preoccupation with thoughts, paranoia; delusions that make the offender a danger to self or others)
- Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders, staffs or follow correctional plan)
- Significant impairment in communications that interferes with ability to effectively interact with other offenders, staff or follow correctional plan
- Significant impairment due to anxiety (panic attacks; overwhelming anxiety) that interferes with ability to effectively interact with other offenders, staff or follow correctional plan Other symptoms: hallucinations; delusions; severe obsessional rituals that interferes with ability to effectively interact with other offenders, staff or follow correctional plan
- Chronic and severe suicidal ideation resulting in increased risk for suicide attempts;
- Chronic and severe self-injury; or
- A GAF score of 50 or less.

The lawsuit says the practice of the Government of Canada of confining inmates to **solitary confinement** (such as administrative segregation) for more than 72 consecutive hours violates the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of Human Rights and Freedoms*. Similarly, the lawsuit says the solitary confinement of inmates with a mental health disorder violates both of these fundamental laws, regardless of the length of their placement.

The class action seeks **compensatory damages** for the harm that class members suffered as a result of their unlawful solitary confinement and **punitive damages** for the Correctional Service of Canada's intentional interference with their fundamental rights.

The Government of Canada denies these claims. The Court has not decided whether the Class or Canada is right. The lawyers for the Class will have to prove their claims in Court.

THE PRINCIPAL ISSUES TO BE DEALT WITH COLLECTIVELY

The authorization decision identified the following questions of fact and law to be treated collectively for the benefit of class members:

1. Does the solitary confinement of Class members violate section 7 or section 12 of the *Charter*? If so, are such violations justified under section 1?
2. Are the Class members entitled to damages as a just and appropriate remedy under section 24(1) of the *Charter*?
3. Is the Respondent committing a civil fault by placing class members into solitary confinement?
4. Should the Respondent compensate the Petitioner and the Class members for the damages caused by its civil fault?
5. Is the Respondent unlawfully and intentionally interfering with the rights of Class members under the *Quebec Charter*?
6. Are the Petitioner and Class members entitled to punitive damages under the *Quebec Charter*?

THE CONCLUSIONS SOUGHT

The authorization decision identified the following conclusions:

GRANT the Petitioner's Motion on behalf of all Class members;

CONDEMN the Respondent to pay the Petitioner and each *Class member in prolonged solitary confinement* the amount of \$500 per day spent in solitary confinement, for each day after 72 hours, plus interest from the date of service of this motion;

CONDEMN the Respondent to pay the Petitioner and each *Class member with mental health disorders* the amount of \$500 per day in solitary confinement, plus interest from the date of service of this motion;¹

CONDEMN the Respondent to pay the Petitioner and each Class member the amount of \$10,000 as punitive damages;

ORDER the collective recovery of the claims;

ORDER the liquidation of the class members' individual claims;

¹ For persons who are members of both classes, the Petitioner is not asking for a double indemnity and only requests compensation of \$500 per day spent in solitary confinement.

THE WHOLE with costs, including costs of all experts, notices and expenses of the administrator, if any;

WHO REPRESENTS THE CLASS?

The Québec Superior Court of Justice has appointed Trudel Johnston & Lespérance to represent the Class as “Class Counsel”. You don’t have to pay Class Counsel, or anyone else, to participate. Instead, if they get money or benefits for the Class, they may ask for lawyers’ fees and costs, which would be deducted from any money obtained, or to be paid separately by Canada.

YOUR RIGHT TO OPT OUT OF THE CLASS ACTION

A class member can exclude themselves from the class action by sending a letter with the court number **500-06-000781-167** to the clerk of the Superior Court of Quebec, at 1, rue Notre-Dame Est, Montréal (Québec) H2Y 1B6, by the latest on April 17th, 2017.

A class member who does not discontinue a legal proceeding having the same subject matter as the class action before the time for opting out has expired, is deemed to have opted out of the class action.

INTERVENTIONS AND LEGAL COSTS

The class action will be heard in the judicial district of Montreal.

A class member can make interventions in the class action before the Court if they are helpful to the other class members.

No class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.

FOR MORE INFORMATION

If you are a class member and would like to receive updates on the progress of the class action, **you can sign up by completing the form on Class Counsel’s website:**

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