

FEDERAL COURT
CERTIFIED CLASS ACTION

BETWEEN:

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

Representative Plaintiffs

-and-

HIS MAJESTY THE KING

Defendant

FINAL SETTLEMENT AGREEMENT

WHEREAS:

1. Dennis Manuge, Raymond Toth, Betty Brousse, Brenton MacDonald, Jean-Francois Pelletier, and David White (“Representative Plaintiffs”) each commenced proposed class proceedings against Her Majesty the Queen, designated as His Majesty the King since September 2022, in Federal Court, which were consolidated in the proceeding bearing Court File Number T-119-19 (“Class Proceeding”);
2. The Representative Plaintiffs are former members (or “Veterans”) of the Canadian Armed Forces (“CAF”) or the Royal Canadian Mounted Police (“RCMP”) who became disabled due to their service and who have received benefits as a result of their service-related disabilities;
3. In November 2018, Canada’s then Veterans Ombudsman, Guy Parent (“Veterans Ombudsman”) announced that his office had discovered “an accounting indexation error” by which Veterans Affairs Canada (“VAC”) had not factored the basic provincial tax credit into the calculation of annual adjustment rates between 2003 and 2010 resulting in reduced payments to eligible recipients of disability benefits under s. 75 of the *Pension Act*. The Veterans Ombudsman reported that VAC estimated the error affected about “270,000” CAF and RCMP Veterans as well as “Survivors, and their estates”;
4. Between 2019 and 2022, VAC paid approximately \$79 million to CAF and RCMP Veterans, survivors, and estates based on the indexation error identified by the Veterans Ombudsman;

5. The Consolidated Statement of Claim (“Claim”) alleges additional errors in the Defendant’s annual indexing calculations under s. 75 of the *Pension Act* from 2003 to present. In particular, the Claim includes allegations that the Defendant did not, when calculating the “average annual gross composite wage” (or “wage rate”) under s. 75(1) (b) *Pension Act* consider the Canada Employment Amount (“CEA”) or use the correct tax rate payable in the province or territory with the lowest combined provincial and federal income tax rate;
6. The Representative Plaintiffs allege that they, and those in similar circumstances (the “Class”), have been, and continue to be, undercompensated due to the Defendant’s miscalculation of the annual adjustment of benefits under s. 75 of the *Pension Act* (“Annual Adjustment”);
7. The Class Proceeding was certified by Order of the Honourable Madam Justice Kane on 23 December 2020 (“Certification Order”);
8. The Class is defined in the Certification Order as:

All members and former members of the Canadian Armed Forces and Royal Canadian Mounted Police, and their spouses, common law partners, dependents, survivors, orphans, and any other individuals, including eligible estates of all such persons, who received – at any time between 2002 and the present – disability pensions, disability awards, and other benefits from Veterans Affairs Canada that were affected by the annual adjustment of the basic pension under section 75 of the *Pension Act* including, but not limited to, the awards and benefits listed at Schedule “A”.

- *Pension Act* pension for disability;
- *Pension Act* pension for death;
- *Pension Act* attendance allowance;
- *Pension Act* allowance for wear and tear of clothing or for specially made apparel;
- *Pension Act* exceptional incapacity allowance;
- *Veterans Well-being Act* disability award;
- *Veterans Well-being Act* clothing allowance;
- *Veterans Well-being Act* remuneration for escort’s meals, transportation and accommodations;
- *Veterans Health Care Regulations* remuneration of an escort’s travel;
- *Veterans Health Care Regulations* treatment allowance;
- *Veterans Review and Appeal Board Act* compassionate award;
- *Civilian War-related Benefits Act* war pensions and allowances for salt water fishers, overseas headquarters staff, air raid precautions workers, and injury for remedial treatment of various persons and voluntary aid detachment (World War II);

- *Children of Deceased Veterans Education Assistance Act* monthly allowance for education; and
 - *Flying Accidents Compensation Regulations* flying accidents compensation;
9. The Representative Plaintiffs and the Defendant (collectively, “Parties”) wish to resolve all claims relating to or arising from the Class Proceeding by making the payments described in this agreement to Class Members who were affected by the alleged miscalculation of the Annual Adjustment; and
10. This agreement evidences the Parties’ desire to achieve a final settlement agreement that will be subject to approval by the Federal Court (“Agreement” or “Final Settlement Agreement”).

NOW THEREFORE, in consideration of the mutual agreements, covenants, and undertakings in this Agreement, the Parties agree as follows:

INTERPRETATION

11. For the purposes of this Agreement:

“Administrator” means a contractor who will be responsible for processing Claim Forms and issuing Settlement Payments to Claimants;

“Affected Benefits” means the following benefits:

- *Pension Act* pension for disability;
- *Pension Act* pension for death;
- *Pension Act* attendance allowance;
- *Pension Act* allowance for wear and tear of clothing or for specially made apparel;
- *Pension Act* exceptional incapacity allowance;
- *Civilian War-related Benefits Act* war pensions and allowances for salt water fishers, overseas headquarters staff, air raid precautions workers, and injury for remedial treatment of various persons and voluntary aid detachment (World War II); and
- *Flying Accidents Compensation Regulations* relating to compensation for flying accidents;
- RCMP Disability Benefits awarded in accordance with the *Pension Act*;

“Annual Adjustment” has the same meaning as in the recitals;

“Certification Order” has the same meaning as in the recitals;

“Claimant” means any person, including an Estate or Estate beneficiary, who submits a Claim Form to the Administrator during the Claims Period and is found to be entitled to the Settlement Payment of a Class Member in the Claims Based Payment Group;

“Claims Based Payment Group” means every Class Member who, on the date of the Final Order, does not have a current payment arrangement with VAC, or is not in receipt of VAC benefits on a recurring monthly basis;

“Claim Forms” means the forms that must be completed by a Claimant and received by the Administrator during the Claims Period;

“Claims Period” means the period ending twelve (12) months from the date of the Final Order;

“Claims Payment End Date” means the period ending 24 months from the date of the Final Order;

“Class” has the same meaning as in the recitals;

“Class Counsel” refers to McInnes Cooper, Gowling WLG (Canada) LLP, Koskie Minsky LLP, Murphy Battista LLP, and Michel Drapeau Law Office, who together represent the Class in this Class Proceeding;

“Class Member” means every member of the Class, including an Estate, who is eligible to receive a Settlement Payment under either the VAC Payment Group or the Claims Based Payment Group;

“Class Proceeding” has the same meaning as in the recitals;

“Court-Approved Costs” means all court-approved payments, disbursements, costs, legal fees, and taxes on legal fees;

“Designated Beneficiary” means:

- a) Any person who submitted and received payment for a claim between 2019 and 2021 based on the indexation error identified by the Veterans Ombudsman;
- b) The most recently listed beneficiary for the Supplemental Death Benefit under the *Canadian Forces Superannuation Act*; or
- c) The most recently listed beneficiary under the *Royal Canadian Mounted Police Superannuation Act*.

“Disability Pension Corrective Payments” means the amounts paid, or payable, under paragraphs 4 and 22;

“Estate” means the estate of any deceased Class Member;

“Final Order” means the Federal Court’s order approving this Agreement in accordance with its terms, once any time to appeal such order has expired without any appeal being taken, or, if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals;

“Funding Request” means a list of all Claimants the Administrator has determined are eligible for a Settlement Payment in a given calendar month throughout the Claims Period;

“Interim Period” means the time-period between the date of the Final Order and the date VAC issues Settlement Payments to the VAC Payment Group;

“Parties” has the same meaning as in the recitals;

“Released Claims” means any and all actions, causes of action, common law, Québec civil law and statutory liabilities, contracts, claims, grievances, and complaints, and demands of every nature or kind available, asserted or which could have been asserted whether known or unknown, including for damages, contribution, indemnity, costs, expenses, and interest (both pre-judgment and post-judgment interest) which any Class Member ever had, or now has, directly or indirectly, arising from or in any way relating to or by way of any subrogated or assigned right or otherwise in relation to claims made in the Class Proceeding, whether asserted directly by the Class Member or by any other person, group, or legal entity on behalf of or as a representative for the Class Member. For greater clarity, the Released Claims include all benefits listed in the Class definition in the Certification Order as described in paragraph 8 of this Agreement, are not restricted to the Affected Benefits, and only include amounts received before or during the Relevant Period but do not include Disability Pension Corrective Payments;

“Releasee” means His Majesty the King in Right of Canada, the Attorney General of Canada, the Minister of Veterans Affairs, and all of their predecessors, successors, and assigns, officers, employees, servants, members of the CAF and RCMP, and agents;

“Relevant Period” means the period from and including 1 January 2003 to 31 December 2023;

“Settlement Approval Order” means the Federal Court order approving this Agreement in accordance with its terms;

“Settlement Payments” means any payments made to, or on behalf of, Class Members under this Agreement, of the Settlement Payment Calculation Amount with respect to that Class Member;

“Settlement Payment Calculation Amount” means the product that results from multiplying the Sum of All Affected Benefits Paid to that Class Member during the Relevant Period by “X”.

“X” is the quotient that results from dividing (i) the Total Settlement Amount by (ii) the sum of all Affected Benefits paid to the entire Class during the Relevant Period. The following formula expresses the Settlement Payment Calculation Amount:

Settlement Payment Calculation Amount	=	Sum of All Affected Benefits Paid to Specific Class Member during Relevant Period	x	“X”
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“X”	=	Total Settlement Amount	÷	Sum of All Affected Benefits Paid to Entire Class during Relevant Period
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The Defendant agrees to make best efforts to determine: (i) the sum of all Affected Benefits paid to a specific Class Member during the Relevant Period; and, (ii) the sum of all Affected Benefits paid to the entire Class during the Relevant Period, as soon as practicable, and, in any event, before the motion to approve the Settlement.

(The Settlement Payment to will be approximately 2% of the Sum of All Affected Benefits Paid to a Class Member during the Relevant Period.)

“Survivor” means:

- a) A surviving spouse of a Class Member in receipt, at the time of the Final Order, of a pension under section 45 of the *Pension Act*;
- b) A person cohabiting in a conjugal relationship with a Class Member and in receipt, at the time of the Final Order, of a pension under section 46 of the *Pension Act*;
- c) A spouse of a Class Member in receipt, at the time of the Final Order, of a pension under section 47 of the *Pension Act*;
- d) Any child, or children, of a Class Member who were at any time in receipt of a pension under section 34 of the *Pension Act*;
- e) Any parent, or parents of a Class Member who were at any time in receipt of a pension under section 52 of the *Pension Act*; and
- f) Any sibling, or siblings of a Class Member who were at any time in receipt of a pension under section 53 of the *Pension Act*;

“Total Settlement Value” means \$817,300,000;

“VAC” has the same meaning as in the recitals. For clarity, VAC refers to Veterans Affairs Canada, the department within the Government of Canada responsible for administering Affected Benefits; and

“VAC Payment Group” means every Class Member or Survivor who, on the date of the Final Order or during the Interim Period, has a current payment arrangement with VAC and is in receipt of VAC benefits on a recurring monthly basis. For clarity, a Class Member may become part of the VAC Payment Group after the date of the Final Order and during the Interim Period, but no such Class Member can receive more than one Settlement Payment.

12. The Parties acknowledge that they have reviewed and participated in settling the terms of this Agreement. The Parties agree that any rule of construction or interpretation to the effect that any ambiguity is to be resolved against the drafting parties is not applicable in interpreting this Agreement.

EFFECTIVE DATE OF AGREEMENT

13. This Agreement will become effective and binding on the Parties and Class Members upon the date of the Final Order.
14. None of the provisions of this Agreement will become effective unless and until the Federal Court approves the Agreement in this form in the Final Order, subject to the Parties' ability to make non-material amendments on consent as necessary.

TOTAL SETTLEMENT AMOUNT AND SETTLEMENT PAYMENT CALCULATION AMOUNT

15. The maximum possible total value of Settlement Payments to be paid to Class Members by the Defendant as part of this Agreement is \$817,300,000. This amount is inclusive of Court-Approved Costs.
16. Upon the final day of the Relevant Period, the Defendant shall determine the Settlement Payment Calculation Amount for each individual Class Member.
17. On or before January 31, 2024, the Defendant shall provide to Class Counsel and the Administrator a list of all Class Members confirming the value of the Settlement Payment Calculation Amount for each individual Class Member.
18. Based upon the good faith estimate of the Parties, the total value of Settlement Payments to be paid to Class Members in the VAC Payment Group is \$435,500,000, and the potential total value of Settlement Payments to be paid to Claimants for Class Members in the Claims Based Payment Group is \$381,800,000, subject to small variations during the Interim Period. These amounts are inclusive of Court-Approved Costs.
19. If the aggregate of all Settlement Payments is less than \$435,500,000, the difference up to \$10,000,000, less Court-Approved Costs, will be paid to a veterans' charity, or charities, as agreed upon by the parties and approved by the Court.

RESPONSIBILITY AND TIMING FOR PAYMENTS TO CLASS MEMBERS

20. The Defendant shall be responsible for paying Settlement Payments to Class Members in the VAC Payment Group in accordance with the terms of this Agreement.
21. The Defendant shall pay Settlement Payments to Class Members in the VAC Payment Group within nine (9) months of the Final Order.
22. The Defendant will continue to make Disability Pension Corrective Payments according to paragraph 4 of this Agreement based on the "accounting indexation error" identified by the Veterans Ombudsman in November 2018 to all Claimants who meet the requirements listed at <https://www.veterans.gc.ca/eng/help/faq/disability-pension-correct-pay>. The appropriate Claim Form will make reference to the procedures for making a request for Disability Pension Corrective Payments. Any corrective payments made to Claimants according to this paragraph will not be subject to Court-Approved Costs, or the Released Claims, and are not included in the definition of Settlement Payment under this Agreement.

23. The Administrator shall be responsible for paying Settlement Payments to Claimants in the Claims Based Payment Group in accordance with the terms of this Agreement.

VAC PAYMENT GROUP – LIVING CLASS MEMBERS

24. The Defendant shall make automatic Settlement Payments to living Class Members in the VAC Payment Group directly through the usual, ongoing, process of remitting VAC payments of benefits to that Class Member.
25. Class Members eligible as Claimants to the Claims Based Payment Group at the time of the Final Order who, during the Interim Period, establish a current payment arrangement with VAC and receive of VAC benefits on a recurring monthly basis, are eligible to be part of the VAC Payment Group.

VAC PAYMENT GROUP - SURVIVORS

26. If a deceased Class Member entitled to a Settlement Payment has a Survivor who is part of the VAC Payment Group, the Defendant shall pay the Settlement Payment on behalf of the deceased Class Member to the deceased Class Member's Survivor(s) in the following priority order:
 - a) A surviving spouse of a Class Member in receipt, at the time of the Final Order, of a pension under section 45 the *Pension Act*;
 - b) A person cohabiting in a conjugal relationship with the Class Member and in receipt, at the time of the Final Order, of a pension under section 46 of the *Pension Act*;
 - c) A spouse of a Class Member in receipt, at the time of the Final Order, of a pension under section 47 of the *Pension Act*;
 - d) Any child, or children, of a Class Member who were at any time in receipt of a pension under section 34 of the *Pension Act*;
 - e) Any parent, or parents of a Class Member who were at any time in receipt of a pension under section 52 of the *Pension Act*; and
 - f) Any sibling, or siblings of a Class Member who were at any time in receipt of a pension under section 53 of the *Pension Act*.
27. The Defendant shall automatically pay Settlement Payments to Survivors under priority steps (a), (b) and (c) directly through the usual, ongoing process of remitting VAC payments of benefits to that Survivor.
28. When more than one Survivor is entitled to receive a Settlement Payment on behalf of a deceased Class Member under priority steps (d), (e), or (f) above, the Defendant shall divide and distribute the Settlement Payment equally among all eligible Survivors identified under the same priority step.

29. For Survivors under priority steps (d), (e), or (f) above who have a current payment arrangement with VAC, the Defendant shall automatically pay Settlement Payments directly through the usual, ongoing process of remitting VAC payments of benefits to that Survivor.
30. For Survivors under priority steps (d), (e), or (f) above who do not have a current payment arrangement with VAC, the Defendant shall make a good faith effort to contact them and update their payment arrangement.
31. The Defendant will provide Class Counsel and the Administrator with a list of all payments made to Class Members in the VAC Payment Group within thirty (30) days of those payments being issued.

VAC PAYMENT GROUP – DEATH DURING INTERIM PERIOD

32. If a Class Member who was part of the VAC Payment Group dies during the Interim Period, and has no Survivor, VAC shall make best efforts to pay that Class Member's Estate directly without the need for them to submit a Claim Form to the Administrator. If VAC is unable to pay the Estate of a Class Member who dies during the Interim Period within ten (10) months of the Final Order, VAC will notify the Administrator, and the Estate will be eligible to apply for a Settlement Payment through the Claims Based Payment Group process.
33. If a Survivor who was entitled to automatically receive the Settlement Payment of a deceased Class Member as noted in paragraph 26 dies during the Interim Period and VAC is unable to issue a payment directly to the Estate of that Survivor, any Claimant who submits a Claim Form to the Administrator to receive the Settlement Payment for that Survivor will be entitled to receive the same Settlement Payment that the Survivor would have received had the payment been issued through the VAC Payment Group.

CLAIMS BASED PAYMENT GROUP – FINDING CLAIMANTS

34. The Administrator will make best efforts to locate and notify all persons eligible to receive a Settlement Payment as Claimants to the Claims Based Payment Group. To assist in that regard, no later than 60 days from the Settlement Approval Order, the Defendant will provide Class Counsel and the Administrator with:
 - a) The names, service numbers, Client Service Delivery Network identification number, executor personal information, and last known contact information of all Class Members in the Claims Based Payment Group;
 - b) Any information concerning the identity and contact information related to an estate trustee or estate representative acting for the Estate of a deceased Class Member in the Claims Based Payment Group;
 - c) Any information concerning the identity of any person who submitted and received payment for a claim between 2019 and 2021 based on the indexation error identified by the Veterans Ombudsman.

35. If required, the parties will work collaboratively and make best efforts to obtain additional information on Claimants either by court order or other means, from the Government of Canada organizations responsible for administering the *Canadian Forces Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act*. The Defendant will make reasonable efforts to assist Class Counsel with obtaining information from the Government of Canada organizations responsible for administering the *Canadian Forces Superannuation Act* and the *Royal Canadian Mounted Police Superannuation Act* to identify class members and acknowledges the application of s. 8(2)(m) of the *Privacy Act* in this regard.

CLAIMS BASED PAYMENT GROUP - SETTLEMENT PAYMENTS

36. The Administrator shall determine a Claimant's eligibility for a Settlement Payment after receipt of a Claim Form received within the Claims Period. The Administrator shall review the Claim Form and documents, if any, received from a Claimant to determine entitlement to a Settlement Payment before the end of the Claims Payment End Date.
37. At the end of each month during the Claims Period and through to the end of the Claims Payment End Date, the Administrator shall provide the Defendant with a Funding Request list describing all Claimants eligible to receive a Settlement Payment on behalf of a Class Member as determined by the Administrator in the same month. For each Settlement Payment to be paid by the Administrator, the Funding Request will include, but not be limited to: the Class Member's name and Client Service Delivery Network identification number, the Claimant's name, email address, telephone number, and relationship to the Class Member, and the amount to be paid.
38. Within 30 days of receipt of the Funding Request, and upon the availability of the funds, the Defendant shall make one payment to the Administrator equal to the total of the Funding Request. For greater certainty, while the Administrator may begin accepting and processing Claim Forms at the beginning of the Claims Period, the Administrator cannot make Settlement Payments until it receives funds from the Defendant. Further, it is understood between the Parties that the best estimate of the Defendant is that it will not be in a position to provide funds to the Administrator until August, 2024. The Defendant agrees that it will provide funds to the Administrator at the earliest possible date.
39. The Administrator shall complete all Claims Based Payment Group Settlement Payments as soon as practicable, but no later than the Claims Payment End Date.
40. The Administrator shall make Settlement Payments to approved Claimants as follows:
- a) Living Class Members who have submitted a valid claim form, appended to this Agreement at Schedule "A", and who are claiming on their own behalf shall be paid their entitlement by the Administrator as soon as practicable;
 - b) An Estate Trustee, Estate Administrator or Executor of a deceased Class Member's estate who produces valid documents to the satisfaction of the Administrator demonstrating their appointment as such shall be paid their entitlement by the Administrator as soon as practicable;

c) All claims submitted within the Claims Period other than those in ss. (a) and (b) shall be held until the end of the Claims Period, at which time the Administrator shall act as follows:

- i. Where there is **only one Claimant**, that person shall be paid the entitlement as soon as practicable
- ii. Where there is **more than one Claimant**, the Administrator shall pay the person ranked highest in the following priority hierarchy:

First Priority	Surviving spouse or common law partner
Second Priority	Surviving child/children
Third Priority	Surviving grandchild/grandchildren
Fourth Priority	Surviving parent
Fifth Priority	Surviving siblings
Sixth Priority	Surviving nieces or nephews (including nieces-in-law and nephews-in-law)
Seventh Priority	Surviving next of kin
Eighth Priority	Charitable organization provided for by a deceased Class Member under a Will

*Should there be more than one Claimant with equivalent highest priority, the entitlement shall be divided equally among those Claimants.

- iii. Where **no claim** has been submitted for on behalf of a Class Member by the end of the Claims Period, the entitlement for that Class Member shall be considered through the Designated Beneficiaries framework.

- 41. In consultation with the Parties, the Administrator will develop all written communications to Claimants related to the Settlement Payments, including the letter explaining to the Claimant how the Settlement Payment was calculated and how Court-Approved Costs were deducted from the Settlement Payment.
- 42. The Administrator will provide monthly reports to the Defendant and Class Counsel to confirm the details of the payments issued.
- 43. The Parties agree to determine jointly, as soon as practicable, the Administrator's scope of engagement and then seek the Federal Court's approval of the Administrator's appointment as soon as practicable. The Parties will also make best efforts to obtain approval of the Administrator's appointment during the hearing of the motion before the Federal Court to approve this Agreement.

CLAIMS BASED PAYMENT GROUP - DESIGNATED BENEFICIARIES

44. If the Administrator has not received a Claim Form from a Claimant by the end of the Claims Period, the Administrator shall take best efforts to make the Settlement Payment directly to an identifiable individual in the following priority order:
- a) Any person who submitted and received payment for a claim between 2019 and 2021 based on the indexation error identified by the Veterans Ombudsman;
 - b) The most recently listed beneficiary for the Supplemental Death Benefit under the *Canadian Forces Superannuation Act*; or
 - c) The most recently listed beneficiary under the *Royal Canadian Mounted Police Superannuation Act*.

LEGAL FEES

45. Class Counsel shall be entitled, subject to the Federal Court's approval, to payment of the Court-Approved Costs to be deducted *pro rata* from each Settlement Payment. The Defendant shall not take a position with respect to Class Counsel's motion to approve payment of fees and disbursements.
46. Class Counsel agree that no additional amount except as approved by the Federal Court shall be deducted for legal fees from any Settlement Payments made to Class Members. Class Counsel further agree to provide reasonable assistance to Class Members with respect to the administration of this Agreement and the Class Proceeding in consideration for the fees approved by the Federal Court. For greater clarity, Class Counsel will not provide legal assistance to Class Members in respect of applications for pensions, benefits, or other awards that may be available to Class Members through VAC or other government agencies.
47. Prior to making a Settlement Payment to a Class Member or Survivor in the VAC Payment Group, the Defendant will deduct Court-Approved Costs relating to that Settlement Payment and pay that amount to Gowling WLG (Canada) LLP, in trust, within thirty (30) days of issuing the Settlement Payments to that Class Member.
48. Prior to making a Settlement Payment to a Claimant, the Administrator will deduct Court-Approved Costs relating to that Settlement Payment and pay that amount to Gowling WLG (Canada) LLP, in trust on a monthly, ongoing basis during the Claims Period.

AUDIT

49. The Administrator shall have the opportunity to review, examine, or audit all Settlement Payments. The Defendant shall have the opportunity to review, examine, or audit all actions of the Administrator under this Final Settlement Agreement.

50. The Defendant will keep Class Counsel fully informed as to the steps taken and the progress of administering and distributing Settlement Payments, including providing copies of documents summarizing payments made under this Agreement. The Defendant will provide month end statements to Class Counsel of all payments made under this Agreement in that month and an updated final report on completing the administration of the settlement. The monthly statements shall be provided no later than the 15th day of the following month and the final report on the 15th day of the month following the last payment. Class Counsel will promptly inform the Defendant of any errors or omissions they identify. The Parties will make reasonable efforts to resolve differences in regard to the statements and final report, as well as to any issues arising that relate to access by Class Counsel to information and documents on administration and distribution of Settlement Payments. In the event that the Parties cannot resolve differences, either Party may apply to the Federal Court for directions and/or a determination.
51. For greater certainty, Class Counsel are entitled to access the master list of Class Members, and individual calculation letters that accompany payments, but are not otherwise entitled to documents in the Defendant's files. Class Counsel are not entitled to access an individual Class Member's file or documents in the Defendant's files on a Class Member's medical condition or the assessment of benefits payable to or on behalf of one or more Class Member, and are further not entitled to access documents that are subject to legal privilege, including solicitor-client, litigation privilege, or cabinet confidence.

COST OF NOTICE AND CLAIMS ADMINISTRATION

52. The Parties shall jointly agree on a notice (or notices) to the Class and the means of publication of the notice (or notices) as well as the process for administering Settlement Payments, all subject to the Federal Court's approval.
53. The cost of publishing the notice, or notices, shall be paid by Class Counsel as a disbursement, recoverable as a Court-Approved Cost.
54. The Administrator shall be paid by the Defendant. The amount to be paid will be agreed upon by the parties and will not be deducted from Settlement Payments to Class Members. For greater certainty, payment of the Administrator will not form part of the Court-Approved Costs.

RELEASES

55. Upon the date of the Final Order, the Representative Plaintiffs and Class Members agree that all Released Claims are barred from legal action. Further, the Parties agree that all Class Members who have not opted out during the Opt-Out Period will be bound by a deemed release in the form set out in the Final Order.
56. The Final Order will declare that:
 - a) Upon the date of the Final Order, the Releasees are forever and absolutely released jointly and severally by the Class Members, and each of them, from the Released Claims; and
 - b) The Class Members, and each of them, are barred from making any claim or taking or continuing any proceedings arising out of or relating to the Released Claims against any Releasee or other person, corporation, or entity that might claim damages and/or contribution and indemnity and/or other relief under the provisions of the applicable Negligence Act, the common law, Québec civil law, or any statutory liability for any relief whatsoever, including relief of a monetary, declaratory, or injunctive nature, from the Releasees.
57. The Representative Plaintiffs and Class Members further agree that following implementation of the settlement, all necessary steps will be taken to effect a dismissal or discontinuance of the Class Proceeding, to be approved by the Federal Court.
58. Upon the Federal Court issuing the Final Order, there will be a deemed release in respect of all persons falling within the Class definition in favour of Canada, the Attorney General of Canada, His Majesty the King in Right of Canada, and all current and former Ministers, employees, departments, Crown agents, agencies, Crown servants, and members of the CAF and RCMP for the matters pleaded, or which could have been pleaded in respect of the calculation of the annual is it adjustment, known and unknown, in the Class Proceeding.
59. This Final Settlement Agreement is not to be construed as an admission of liability by Canada.

SETTLEMENT APPROVAL

60. The Parties agree that they will seek the Federal Court's approval of this Final Settlement Agreement.
61. The motion for approval of the negotiated Final Settlement Agreement, and Class Counsel's fees will be prepared by Class Counsel and will be provided to Counsel for Canada in draft for comment before filing with the Federal Court. The Parties agree to have the motions heard in one sitting.

TAXATION AND SOCIAL BENEFITS

62. The Defendant confirms that the Affected Benefits are non-taxable. The Defendant shall assist in seeking confirmation from Canada Revenue Agency that none of the Settlement Payments will be treated as taxable income.
63. If Canada Revenue Agency confirms that none of the Settlement Payments will be treated as taxable income, neither the Defendant nor the Administrator shall withhold any amounts on account of tax, or file with the Canada Revenue Agency information reporting Settlement Payments made under this Agreement.
64. Benefits administered by VAC will not be negatively affected by the Class Member's receipt of a Settlement Payment under this Agreement, including by offset.

CONFIDENTIALITY

65. Any information provided, created, or obtained in the settlement and administration of the settlement, whether written, digital, or oral, will be confidential to the Parties, their counsel, and the individual Claimant who is the subject of the particular information and will not be used for any purpose other than the Settlement unless otherwise agreed by the Parties, except where otherwise provided by law. Save as otherwise required by law, the undertaking of confidentiality as to the discussions and all communications, whether written, digital or oral, made in and surrounding the negotiations leading to this Agreement continues indefinitely.

OTHER TERMS

66. Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement on behalf of the Parties identified below.
67. This Agreement constitutes the entire agreement between the Parties and may not be modified or amended except in writing, on consent of the Parties, and with Court approval.
68. This Agreement shall, without notice, be automatically terminated if the Federal Court does not approve this Final Settlement Agreement. In the event of termination, this Agreement shall have no further force or effect, save and except for this section, which shall survive termination.
69. As soon as reasonably possible, the parties shall jointly prepare a French language version of this Agreement.
70. The Parties may apply, on notice, to the Federal Court as may be required for directions in respect of the interpretation, implementation, and administration of this Agreement.

71. The Federal Court shall retain and exercise continuing and ongoing jurisdiction with respect to implementation, administration, interpretation, and enforcement of the terms of this Agreement.
72. This Agreement may be signed in counterparts.
73. All references to currency herein are to the lawful money of Canada.

Signed this 8th day of November 2023.

For the Class:

By: 
Daniel Wallace

For the Class:

By: 
Michel Drapeau

For the Class:

By: 
Angela Bessflug

For the Class:

By: 
Malcolm Ruby


For the Class:

By: 
Adam Tanel

For the Defendant:

By: 
Lori Ward

For the Defendant:

By: 
Victor Ryan

For the Defendant:

By: 
Angela Green