

Sent

Court File No. T-1032-17

FEDERAL COURT

BETWEEN:

**JOHN DOE #1, JANE DOE #1, JOHN DOE #2
JOHN DOE #3 and JANE DOE #2**

FEDERAL COURT COUR FÉDÉRALE	
JUL 13 2017	
MICHELLE GALVIN	
TORONTO, ON	
FILED	DEPOSED

Plaintiffs = 1

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiffs' solicitor or, where the plaintiffs do not have a solicitor, serve it on the plaintiffs, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: JUL 13 2017, 2017

MICHELLE GAUVIN
REGISTRY OFFICER
AGENT DU GREFFE

Issued by: _____
(Registry Officer)

Address of local office:

180 Queen Street West
Suite 200
Toronto, Ontario
M5V 3L6

TO: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**
(ON BEHALF OF THE CANADIAN SECURITY INTELLIGENCE SERVICE)
Department of Justice Canada
Ontario Regional Office
The Exchange Tower
130 King Street West, Suite 3400, Box 36
Toronto, Ontario M5X 1K6

RELIEF SOUGHT

1. The Plaintiffs, John Doe #1 ("Alex"), Jane Doe #1 ("Bahira"), John Doe #2 ("Cemal"), John Doe #3 ("Emran") and Jane Doe #2 ("Dina") (collectively, the "Employees"), claim:

- (a) a Declaration that the Defendant, referred to as the Canadian Security Intelligence Service or "CSIS", owed and was in breach of contractual, constitutional, statutory and common law duties to the Plaintiffs;
- (b) a Declaration that CSIS has breached the Employees' rights under the *Canadian Charter of Rights and Freedoms*, ("Charter") Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11, specifically with respect to ss. 2(a) and 15 of the *Charter*;
- (c) a Declaration that CSIS is liable to the Plaintiffs for the damages caused by its breach of contractual, constitutional, statutory and common law duties;
- (d) non-pecuniary general damages arising from CSIS's breach of contractual, constitutional, statutory and common law duties in the amount of \$15,000,000;
- (e) pecuniary damages arising from CSIS's breach of contractual, constitution, statutory and common law duties, including for loss of income relating to loss of promotional opportunities, promotions, overtime, educational opportunities, and loss of pension value in the amount of \$15,000,000;
- (f) special damages in an amount to be determined, including future and anticipated medical and out of pocket expenses;
- (g) aggravated, exemplary and punitive damages, and damages pursuant to s.24(1) of the Charter in the amount of \$5,000,000;
- (h) prejudgment and post-judgment interest;
- (i) the costs of this action, including HST and other taxes as applicable, on a substantial indemnity basis; and
- (j) such further and other relief as this Honourable Court may deem just.

THE PARTIES

The Plaintiffs

2. The Employees are named as Does and identified below using pseudonyms because they have been warned by their employer, CSIS, that they are forbidden from publicly identifying themselves, or any colleagues, as employees of CSIS (also referred to as the "Service"). Management personnel and other employees have also been identified using pseudonyms.

3. Alex is an Intelligence Officer with CSIS. He resides in Toronto, Ontario, with his partner. He has been in the Service for 15 years, since 2002.

4. Bahira is an Intelligence Officer with CSIS. She resides in Ottawa, Ontario, with her family. She has been in the Service for 15 years, since 2002.

5. Cemal is an Analyst with CSIS. He resides in Oakville, Ontario, with his family. He has been in the Service for 22 years, since 1994.

6. Emran is an Analyst within CSIS. He resides in Toronto. He has been with the Service for 12 years, since 2005.

7. Dina is an Intelligence Officer with CSIS. She resides in Toronto, Ontario, and has been in the Service for 16 years, since 2001.

The Defendant

8. CSIS is an agency of the government of Canada engaged in investigating activities suspected of constituting threats to the security of Canada. CSIS was and is at all material times the employer of the Employees.

OVERVIEW

9. The Employees in this case are all dedicated, hard-working, high-performing, long-term employees of CSIS. Despite this, they have each been harassed and discriminated against by CSIS management and colleagues, on the basis of religion, race, ethnic and/or national origin, gender and/or sexual orientation.

10. CSIS is a workplace rife with discrimination, harassment, bullying and abuse of authority, in which the tone set by management, namely to mock, abuse, humiliate and threaten employees, has permeated the workforce. CSIS management has not only allowed this culture to thrive, it has actively inculcated this culture, openly rejecting and mocking respectful workplace norms. This tone and approach has been dictated from the top, and adopted throughout the organization, resulting in an environment in which employees recognize that upward mobility and career success can be achieved through rejecting respectful workplace conduct and visibly aligning with the misconduct of management. This racist, sexist, homophobic and discriminatory behaviour has become the accepted culture and norm.

11. Not only do members of management comport themselves in a manner to facilitate this culture, but they refuse to acknowledge it constitutes wrongful conduct. To many of them, the rules simply do not apply. While not all members of CSIS management openly behave in this fashion, management has been generally unwilling or unable to take steps to protect the Employees or stop the harassment. Those that do not participate tend to look the other way. Attempts to raise concerns or seek corrective action have been met with derision, threats of reprisals, and further harm. There is simply no meaningful check on the harassment, intimidation and abuse within CSIS.

12. For the Employees, this conduct has simply been too much for too long. They have learned through repeated efforts to get over it, get along and get ahead, that this is simply not possible. They have been judged, mocked, humiliated, held back and ignored time and again, resulting in stress and embarrassment, depression and anxiety and ultimately loss of income and opportunities.

THE EXPERIENCES OF THE PLAINTIFFS

Alex

Alex's Background

13. Alex has worked at CSIS for approximately 15 years as an Intelligence Officer, and most recently held the level 9 rank of Senior District Supervisor. Alex is a highly decorated CSIS officer. He has been streamed into the elite Management Development Program after receiving numerous accolades and awards for his exemplary service by CSIS, as well as sister agencies, including most recently the RCMP and Privy Council Office ("PCO"). Such awards included a

2015 CSIS Director's Certificate of Appreciation and a 2014 Regional Award of Merit, as well as 2014 PCO Certificate of Appreciation. In total, during 2014 / 2015, Alex received 5 major awards for his excellent work and staff management of complex intelligence operations.

Alex's Working Environment

14. Alex is gay and his partner is Muslim. Since his arrival at the Toronto Region CSIS office 10 years ago, Alex has been subjected to ongoing harassment and ridicule, including routine use of derogatory terms relating to his sexual orientation and his same-sex partner's religion. The abuse became more pointed and intense as he ascended into more senior supervisor ranks and began interacting with members of management on a day to day basis.

15. Emails exchanged between members of management, some of which were also sent to Alex, demonstrate the culture at CSIS:

- (a) "What the hell do you think you're doing, just because you wear a pink shirt and are in "LOVE" with [Alex] and want to be with him (you are not one who can handle him, only I can) ..." – Joe to Gary June 2006
- (b) "... can't believe you sent me a gay guy to the airport. He wants to make everything pretty around the office" – Joe to Evan, Harold, and Gary, November 2006
- (c) "... [ADC] says you're loving your new gay toy. Keep him in line and handle her" – Harold to Joe, November 2006
- (d) "I bet you have a good handle on your resident queer eye for straight guy. Getting her to do all your work for you?" – Harold, Joe, Evan and Gary, March 2007
- (e) "I thought you were behind [Alex]'s back???? Once [Alex] gets Serbian tough love he will forget Italian wimp love" – Gary to Joe, June 2007
- (f) "Hey tapette, you're just a fag hiding in you little corner sobbing..." – Joe to Alex
- (g) "Don't worry you will be coming over to TR [desk name] as I am the only "man" capable of handling you" – Gary to Alex, August 2007
- (h) "You will finally be away from the wimpy Italian porn star looking MILF hunter and now working with a real man, a legend, a Serb" – Gary, August 2007

- (i) "I am grateful to have met [Alex] that taught me to be closer to my feminine side"
– Joe, October 2007
- (j) "I had never had a gay encounter and I have to tell you that it is not unpleasant at all" – Joe, October 2007
- (k) "...get [Alex] to do the interview tonight [desk operation]. OT for the homo is approved" Harold – 2008
- (l) "Homo, [Deputy Director General] says you're getting fat.... You can make it up to him by feeling his hard ass" – Joe to Simon, June 2014
- (m) "careful your Muslim in-laws don't behead you in your sleep for being homo" – Simon, October 2015

16. The emails are a sampling only. The reality was that members of management in Toronto typically addressed Alex's sexuality in day to day communications, both with him and about him, using the terms "gay boy", "fag", "fag boy", "homo", "tapette" (French equivalent to "fag"), "queer" and "token gay", and teasing Alex about being "feminine". The culture was so pervasive and had become so normalized that members of management made these types of comments openly. In fact, at a town hall meeting in 2014, in which the entire Toronto office was in attendance, a member of management stood at the podium and joked that Alex "[took] it from behind".

17. Simon routinely teased Alex about gaining weight, telling him that he was "getting fat", often publicly, including in front of Alex's staff. On one occasion Simon sought to publicly humiliate and demean Alex by posting an embarrassing photo of him (where he appeared to be overweight) in the Toronto Region CSIS elevator for staff to see, and while Alex was not even working in the office. An employee association representative removed this photograph and reported it to the Regional Director General at the time, who summarily dismissed the complaint and told the employee representative to 'move along' and 'mind her own business'.

18. Alex recognized that success at CSIS depended upon working well with management, and he struggled to walk the appropriate line. He was cautious about confronting management, and tried to laugh off as much as he could, however he found it increasingly difficult.

19. Alex began attending the regular Toronto office drinking sessions for management that took place every Friday at 3pm. Alex recognized this as networking and an essential part of his career development, as management support was necessary for upward mobility within the Service. Indeed, given the discretion associated with promotions, a positive relationship with management was the single most important factor in getting ahead.

20. Through these drinking sessions, as well as other social events, Alex became more familiar with members of management. In the Friday sessions, he was referred to as the fag or gay boy, but he learned that members of management had nicknames for others who were not in attendance, typically based on ethnicity or religion. For example, he learned that Cemal was referred to as "Muslim Brotherhood", Sheikh [Cemal], and Imam. Through participation in these group sessions, Alex learned that anti-Muslim sentiment was pervasive within the group. There existed a deep-seated distrust and contempt for all Muslims, which manifested in conversations ranging from terrorism to human resources.

21. Management's perspective on Muslims was one of Alex's most troubling concerns, as his partner is Muslim, and Alex did not want his partner exposed to, and hurt by, management's slurs. At a social gathering in which spouses were present, a senior member of management, Simon declared "All Muslims are terrorists" and continued making similar remarks until Alex's partner left the room. When questioned at the time, Simon simply yelled "All Muslims *are* terrorists".

The Environment Deteriorates

22. In August 2015, the most senior member of Toronto's management, the Regional Director General, Barry, died unexpectedly. Although Barry did not refrain from the jokes and comments that permeated the management group, he did sometimes try to rein in the more extreme comments by remarking in a friendly and fatherly way, "you can't say that". As a benevolent figure who allowed his team to engage in harassing and discriminatory conduct, but somehow also seemed to convey a modicum of restraint, he had the respect of his group, and his unexpected death hit them hard. After he died, Alex perceived that the comments became more extreme and conduct overall became less constrained.

23. In late December of 2015, Alex was working at a location out of the downtown office when he received new instructions about an operation then underway. Specifically, he was told to have

his team stand down. He was concerned that the instructions may have been made without current information, and he sought desperately to speak with managers in the Toronto office. Unfortunately, the Toronto group had commenced a Christmas party mid-afternoon, and they were not answering phones, emails or texts. Alex's texts to try to set up a call became increasingly frantic, but his manager, Simon, refused to speak or respond, finally texting back a terse 'go home, you are not needed'. Frustrated, Alex informed a co-worker that he was unable to communicate with Simon or others, and was told they were all at the party, drunk.

24. The following day, Alex was at the Toronto office and was called into Simon's office where he met with Simon and two other managers, Francois and Claude (the "Meeting"). Simon immediately began berating Alex for interacting with a terrorist. Somebody had alleged that an individual known to Alex was a terrorist, but in fact it was an unfounded and maliciously motivated allegation that was readily debunked. Alex was connected to that individual on Facebook, and that is what prompted the questioning of Alex. Alex was able to provide some background on that individual, indicating that he utterly lacked any characteristics that were consistent with a terrorist. In the course of this discussion, Alex mentioned that the individual was gay, and that derailed Simon, who complained about gay men always having their shirts off. Alex then turned to Simon and expressed his frustration that Simon had let down the team the day before by refusing to take a call on an operational matter of importance. Simon responded that Alex was just a gay boy who wanted to take gay selfies with VIPs.

25. Alex was angry with Simon for ignoring Alex's attempts to communicate the day before, and for placing Alex and the Service in an awkward position with sister agencies. Simon deflected Alex's attempts to address that issue by mocking Alex's sexuality. Simon began rhyming off gay slurs and Alex began counting them out. Francois and Claude just watched, amused. Alex became increasingly upset. Simon was using Alex's sexuality to demean him – to put him in his place in front of Francois and Claude. As his emotions began to overwhelm him, Alex asked for an apology. He repeated his request and all Simon could say was that Alex should be apologizing to him. Alex left the meeting in tears.

Alex Seeks Help

26. Alex had first raised his concerns about harassment and discrimination in or about 2013, with a representative of CSIS' informal employee association, and he continued to renew his concerns with that representative periodically over the following years. He was told and believes that the representative took his concerns to management, but management was simply indifferent.

27. Alex also raised his concerns in the feedback section of his written performance review in late 2014. In that review, Alex expressed his sense that he was being harassed by his supervisor based upon his personal identity (namely his sexuality), that the situation was causing him stress and that despite discussing this with his supervisor, nothing changed.

28. Alex emailed his Chief in early 2015, begging for assistance to deal with the incessant harassment from several senior managers, but nothing was done.

29. Immediately following the December 2015 meeting, Alex reached out to several senior managers, who responded over email and text messages cautioning Alex against making a complaint, stating:

"If his treatment was bothering u how different is it this time overall all these yrs?...it came with the territory and 'friendship of convenience'"

"We do what's asked of us and keep our heads down and don't cause trouble...I know it's everything against corporate speak u are learning at MDP, but that is theory and isn't reality"

"...but before you do anything I want u to really know what can be expected after a thing such as complaint. There will be no turning back"

30. Colleagues provided the same kind of advice:

"Just let it go"

"This is just the way it is in the [Toronto] region"

You "shouldn't be surprised"

"As much as your upset, [these senior managers are] leaving u still have 15 yrs. I know not an answer u want to hear but u need to think longer term impact."

"Look at [another employee]'s example. One event which has haunted him his whole career. Again not right, but managers/staff are all human. Just like anywhere we r built on our reputations. We do what's asked of us and keep our heads down and don't cause trouble. ... At the end of the day what is your goal here?? U want to make it harder for yourself?" and "I want u to really know what can be expected after a thing such as a complaint. There will be no turning back."

31. In the days after the Meeting, Alex reached out to various colleagues, including some managers, looking for help. Although some were sympathetic, most simply said this is the environment in which we work – get over it. They also warned him of the consequences of making a complaint.

32. In February 2016, after the Meeting, Alex took the extreme step of requesting and obtaining an off-site meeting with the new Regional Director General of Toronto. Overwhelmed and stressed, Alex explained what happened at the Meeting. He was visibly shaken and distressed. The Regional Director General cut him off and said he supported Simon's management style. Alex immediately understood that the new Regional Director General did not want to hear or deal with the harassment and discrimination in the Toronto office. Indeed, the Regional Director General proved this was the case as he did nothing in response to having Alex's concerns brought to him, and has defended that lack of response as adequate.

The Harassment Complaint

33. The Meeting was traumatic for Alex. He had worked in an environment in which he was mocked, teased and humiliated about his sexuality, but by and large, he felt that it had not crossed into his operational endeavours. In other words, he believed that his work was supported and respected, even if he was not. During the Meeting, that changed. Simon's contempt for Alex's sexuality was central to the discussion, and to Simon's explanation for his operational decision making.

34. Following the Meeting, Alex was overwhelmed by a sense of betrayal. He understood from his colleagues that he should keep his head down and be quiet, but he could no longer do so. He felt that his efforts, contribution and hard work, and indeed all of his accomplishments in the Service, meant nothing in the end, as he was judged and dismissed, and indeed put in his place, by Simon, because he was gay.

35. Following the meeting, Alex experienced various ailments, including stress, anxiety, and sleeplessness, among other things. He struggled with how to go forward in the Service, knowing that a complaint would harm his career, but knowing also that he could no longer tolerate the working environment. Following the Meeting, Alex became a pariah in the workplace. Alex made a formal harassment complaint about the Meeting in April 2016.

36. In support of the harassment investigation, several Service employees wrote a joint email June 2016, referring to the reprisals directed at Alex:

"All of us at [operational desk] have seen how the events of the past few months have affected [Alex] overall demeanor...On one specific occasion, [Chief counter Terrorism and DDG were] hunting [Alex] down. Once they reached him, he was asked, 'what the fuck are doing over there?' [DDG was yelling at [Alex] so loud we could all hear... None of these things are professional and this is not how [we] expect managers and leaders to act... this situation has caused [Alex] a lot of stress. [We] can attest that [Alex] is NOT making any of this up".

37. In or about July 2016, CSIS retained a third-party investigator who reviewed Alex's complaint and spoke with him as well as over 20 other employees within the Service, including Simon, Claude, and Francois. Although Alex sought to provide the investigator with written proof of historic incidents of harassment and discrimination, the investigator maintained a narrow mandate. Nevertheless, when CSIS ultimately made the investigator's report available to Alex in November 2016, Alex saw that the report chronicled the overwhelming evidence of harassment and discrimination within the workplace, as provided by many, many witnesses interviewed. The truth behind his years of complaints was demonstrated.

38. In the report, the investigator set out the definitions of harassment and abuse of authority, and also noted CSIS' stated *Standards of Managerial Conduct* and its *Code of Conduct* expectations. The relevant *Standards of Managerial Conduct* include: i) builds and promotes a safe and healthy, respectful directorate, free of harassment and discrimination; ii) fosters an inclusive and sensitive interpersonal climate; iii) maintains sound judgment and decision-making in demanding or stressful situations; and iv) acts as a role model for directors. The *Code of Conduct* requires, among other things, that individuals show respect for others, stating:

2.3 *Respect for People; Employees must:*

- a) respect human dignity and the value of every person;*
- b) treat every person with respect, fairness and courtesy;*
- c) value diversity and the benefit of combining the unique qualities and strengths inherent to a diverse workforce;*
- d) contribute to the creation and maintenance of a safe and healthy workplace that is free from harassment and discrimination; and*
- e) work with a spirit of openness, honesty and transparency that encourages engagements, collaboration and respectful communication.*

39. The report noted that most witnesses asked not to have comments attributed to them for fear of reprisal. In fact, the report noted that there were overwhelmingly consistent observations and perceptions of workplace culture, and these included:

- (a) The culture is old school, or an old boy's club;
- (b) There is a general fear that reprisal, retribution and punishment is commonplace regarding how senior managers act;
- (c) Rewards and punishments are "personality driven" rather than merit based;
- (d) Complaints directed at management regarding harassment, inappropriate behaviour and/or reprisals are dismissed and disregarded;
- (e) The workplace atmosphere is 'work-hard, play-hard', with regular consumption of alcohol in the office and politically incorrect, off-colour jokes and teasing. It is a loose, locker-room type of environment.

40. The report noted that the Meeting was more akin to an argument, that it was loud, highly confrontational and emotionally charged, and that it did include numerous references to homosexuality. The report also chronicled the overwhelming evidence that inappropriate comments were regularly made about Alex's sexual orientation, within the workplace. Although the report concluded that Simon and Alex had a unique friendship that included banter, it noted that Simon was in the position of power, and was therefore more accountable for instigating, establishing and promoting the atmosphere in the region. The report concluded that a general pattern and history of harassment was substantiated, and that Simon and others were clearly in

breach of the harassment policy and Code of Conduct. The report placed blame on Simon and the entire senior leadership of the region.

41. Although CSIS delayed the release of the report to Alex for weeks, purportedly to make "minor changes ... i.e., grammatical", it ultimately did disclose the report. CSIS initially provided Alex with a letter advising there were no findings of harassment. CSIS also initially refused to provide Alex with a complete and un-redacted copy of the investigation report, until Alex threatened legal action. Alex was finally issued a letter acknowledging a harassment finding, but which failed to propose any redress or even offer an apology.

42. The harassment investigation report identified improper and unprofessional conduct at CSIS, as well as a culture of fear of reprisals. Witness comments included:

"The public would be shocked about this if they only knew; we keep our own secrets"

"...there is racism, discrimination and harassment in TR and the Service... people get away with disrespecting and bullying minorities"

"Big fear here is reprisals; peoples' lives are at risk because of drunken decisions"

"We have been here long enough to know how this place works... our culture... for 35 years. It isn't right but it is what it is"

"People are afraid to speak up; like hiding under veil of secrecy and getting away with stuff... mobility and threat of relocation can be a tool for punishment and reprisal"

Reprisals

43. The report noted that most witnesses asked not to have comments attributed to them out of a fear of reprisal. It is a well-founded fear. After Alex made his harassment complaint, he was told to stop coming to the weekly management meetings. Simon said that neither he nor the rest of the management group wanted Alex to attend.

44. Following the harassment complaint, Alex was also removed from participating in a promotional board to which he had been appointed. Participating in a promotional board is part of the experience needed to progress at CSIS, and he had been appointed to the board because he was qualified for the task. No plausible explanation was offered for Alex's removal – it was purely retaliatory.

45. Oversight of Alex and his team also became tighter. Frequently, Alex's unit was told to stand down, or had their orders changed at the last minute. Alex was yelled at in front of his staff and chastised without reason. Alex was also undermined to external agencies. In one case, Simon emailed an individual at a partner agency and blamed a problem on Alex's "stupidity" – even though it was a problem that had nothing to do with Alex.
46. In early fall 2016, Alex obtained his performance evaluation and found that, despite his consistently good performance, his recent awards and accolades, and the assurance of his supervisor that he was in line to maintain the score needed for the management development program, his score fell just a fraction short. Alex's supervisor Rick explained that he had docked Alex marks for professionalism because of the harassment complaint. Alex was then prevented from undertaking management responsibilities.
47. After leaving the office on sick leave, Alex heard from colleagues that Simon was telling people that Alex had circulated photos of himself engaged in sexual acts. This is a blatant falsehood, but it is part of a general whisper campaign waged by management to combat the report, the conclusions of which they have denied. The rumour is that Alex has 'lost his marbles', and is on medical leave.
48. Alex had been warned by colleagues that the consequences of making a harassment complaint would be profound, and they were right. Alex became a pariah to members of management. When Alex made his complaint, management circled the wagons. While Alex identified Simon in his complaint, the conduct of the entire management team, and indeed the culture of the Service, was under investigation. Alex was punished for exposing management to the scrutiny of an outsider – scrutiny that had never been imposed on this enclave of privileged individuals who considered themselves above the law. When the report resoundingly supported Alex's complaints, CSIS only reluctantly acknowledged the conclusions, and took no steps to address the consequences of the harassment and reprisals.
49. On November 9, 2016, following the findings of harassment, and the widespread fear of reprisal throughout CSIS, a town hall was convened at which the Regional Director General told employees that there were no reprisals going on in Toronto Region, that he could see, and that fear of reprisals was merely the "perception of some people".

50. Alex has been in and out of the workplace a few times since making the harassment complaint, but he has been mostly off work sick, exhausting his long-accumulated sick time. Rather than expressing concern with Alex's health, CSIS has chosen to remind Alex of his secrecy and confidentiality obligations, in an effort to quickly and quietly sweep the truth under the rug. Despite harassment findings, there has been no apology, or attempt to fix the ongoing issues, or to right the wrongs suffered by Alex. CSIS permitted its managers to fail Alex, and it continues to fail him now.

The Impact on Alex

51. CSIS's continued failure to prevent or in any way address the harassment and abuse of Alex by senior managers has resulted in irreparable harm to his reputation and career in the small CSIS and intelligence community. Alex's career has been irretrievably ruined by the toxic work environment and whisper campaign that routinely follows whistleblowing. Yet it is clear that CSIS is still attempting to sweep the harassment under the rug by minimizing the findings in Alex's case and discouraging others from standing in solidarity with Alex and coming forward with their own stories.

52. Alex has been on medical leave since June, 2016 and suffers from severe panic attacks, low mood and depression, weight-loss, insomnia and symptoms of PTSD. Alex is now medicated for anxiety-related neurological body tremors, severe panic attacks and depression.

53. Alex has obtained 12 medical certificates since 2016, directly referring to his workplace harassment, and is under the weekly care of a psychologist.

Bahira

Bahira's Background

54. Bahira has worked at CSIS for approximately 15 years, most recently holding the senior level 8 rank of Intelligence Officer. She is a well-educated, multilingual Muslim woman of Arab and African descent. Her colour, ethnic origin and religion have at times been precious assets to the Service, but at all times, they have made her the target of harassment, discrimination and reprisals from members of that same organization.

Bahira's Working Environment

55. Bahira commenced her career in CSIS' Ottawa office as an Intelligence Officer. Immediately upon entering the Service, Bahira recognized that the atmosphere was hostile to Muslims. Bahira had commenced the lengthy process to join the Service before the 9/11 attacks, but began working shortly after they occurred. As soon as she entered the workplace, she noted that anti-Islamic comments and views were commonplace. For example, a colleague displayed a cartoon which read in Arabic that "Prophet Mohammed of Islam is a dog and Jerusalem is ours", and depicted a dog wearing Arabic clothing. When Bahira asked the manager if he knew what the cartoon said, he confirmed that he wrote it with the help of Christian Arabs.

56. Although Bahira was uncomfortable with the negative attitude she perceived towards Muslims, she was new to the workforce and the Service, and she was keen to make a contribution and demonstrate her abilities. She consciously decided to overlook the prejudice with a view to undermining it with her own actions.

Bahira Begins Wearing a Hijab

57. For many years, Bahira had considered wearing a hijab as an expression of her faith. After considerable thought, and with a few years of experience in the Service, she felt it was time for her to do so. In 2004, Bahira began wearing a hijab, including to work, causing an uproar, and a stirring of suspicion so intense that it exists today.

58. Bahira was asked by her manager why she decided to wear a hijab and was questioned at length by her managers about how she would be able to carry out her duties as an Intelligence Officer while wearing a hijab. During these discussions, her managers conveyed suspicion and appeared skeptical of Bahira's responses.

59. Manager William expressed concern that by virtue of being a practicing Muslim, Bahira may be in the same vicinity as subjects of service investigations. Bahira was instructed by senior managers William and Charles to report her activities in the Muslim community, including attendances at mosques and community events. In fact, William directed Bahira to disclose all her planned activities in the Muslim community *prior to attendance*. On one occasion, William and Charles told Bahira not to attend a movie presentation with her parents and their friend, who was

the father of an employee of the National Council of Canadian Muslims. No rationale was provided.

60. As a result of the invasive and unprecedented directive to Bahira that she essentially seek permission for outside religious activities, she was in regular contact with her senior managers and she was constantly reminded of the suspicion she was now under. Bahira tried to work within the directions she was given, and maintain a normal and happy personal life, but it was extremely challenging. She began opting out of events and shunning friends and acquaintances in order to avoid having to ask for permission or raise suspicion with her managers.

Being a Muslim in CSIS

61. During her interactions with William, he routinely turned the conversation toward Bahira's background as an Arab Muslim, and purported to express concern about whether Bahira's father would "allow" her to move out of Ottawa. He also suggested that Bahira might one day leave CSIS and divulge CSIS methodology to members of the Muslim community. This suggestion was wholly unwarranted and particularly painful, as Bahira had committed so much time and energy to performing her job well, and had made the same oaths of secrecy as her non-Muslim colleagues, yet she continued to be suspect. Although Bahira had disclosed her faith and her affiliations with faith-based organizations prior to joining CSIS, it was clear that William was not comfortable having a Muslim at CSIS and did not trust her due to her religious and ethnic background.

62. Later in 2004, Bahira requested a transfer to the CT desk for Country X. She was told that William would not support her request because of her "attitude". William stated that Bahira was new to CSIS and "did not understand the culture". Ultimately, in early 2005, Bahira's transfer to the CT Country X unit was approved, however she did not have access to source files. Various excuses were offered to explain that approvals had not yet been obtained. She was embarrassingly underworked relative to her colleagues, who were over-burdened. When this circumstance became a matter of contention in her group, Bahira went to her supervisor who admitted to Bahira that he had been instructed not to give her access to any source files due to her involvement with a Muslim organization.

63. Stunned, Bahira went to the Director General and related the situation. Rather than offering to correct the situation or support her, he asked her if she had felt frustrated being a second-

generation Canadian Muslim. With tears in her eyes, Bahira listened to the Director General explain that he perceived security threats emanating from second and third generation Canadian Muslims - clearly referring to her - despite the fact that she was a CSIS Intelligence Officer and subject to the same rigorous security clearances as non-Muslims officers. In fact, that perspective became standard throughout the office: all Muslims are suspect, and while they will appear to blend in, they could strike at any time.

64. On April 24, 2004, William chaired a meeting in which the Director General of Personnel Services and representatives of Internal Security were present. In this meeting, Bahira was told that some of her outside activities were incompatible with the performance of her official duties with the Service and posed a conflict of interest. She was asked to further discuss her outside activities with all present. She reported attending the mosque biweekly, and making donations randomly. Bahira was told that her security clearance could be revoked for associating with organizations or individuals in the Muslim community that could be perceived as antithetical to CSIS.

65. Specifically, Bahira was told that two prominent Muslim charitable organizations were antithetical to CSIS' work, and she was to cease all associations with those organizations. Indeed, following the meeting, Bahira was sent a memo confirming that direction in writing. Given that those organizations were closely integrated into the Canadian Muslim community, the directive made it difficult for Bahira to maintain participation in her religious community while satisfying her employer. Bahira was greatly disappointed given that these two organizations help organize Eid events, Ramadan gatherings, and Muslim summer events. Bahira effectively had to choose between being a member of the Muslim community or working at CSIS. She chose to continue her career at CSIS.

66. Although Bahira remained dedicated to CSIS, the loyalty was not returned. Bahira was shocked to receive a performance evaluation giving her a score of 1 out of 4 (the lowest score) for "judgement" in her 2004 assessment. When Bahira asked her supervisor about the evaluation, he indicated that he had rated her 4 (exceeded expectations), but that William had changed the score on the evaluation report.

67. Shortly thereafter, Bahira was abruptly and prematurely transferred out of the Counter Terrorism Branch to Counter Intelligence, and a country desk with which she had no background, all without consultation, implying that they did not trust Bahira to work on the entire file and creating the impression that she had done something wrong, and reinforcing the suspicions about her. Bahira noticed that her colleagues and friends at CSIS distanced themselves. She began having lunch in her office and crying in the stairwell.

68. In or about this time, an employee of Chinese background advised Bahira that she was experiencing harassment and discrimination. She had commented to her Chief that CSIS was not a diverse place to work, and then noticed that her colleagues had become distant and would not discuss operational details in front of her. Shortly thereafter, that employee was fired. Bahira was later advised by the former employee's manager that the employee had been fired because she was outspoken. That same manager also told Bahira that he was told not to share sensitive information with the employee, and to shun her, confirming that management did have a strategy of "shutting out" employees. Bahira recognized that treatment, and feared that she would also end up fired.

69. Despite the fact that her security clearance was not up for review until 2007, Bahira was asked to report to Internal Security where she was asked to take a polygraph examination in 2005. She questioned the need to undertake a polygraph and was then interviewed by Internal Security for ten hours. She was essentially subjected to an interrogation about her activities and contacts in the Muslim community. She was asked personal questions about her family and why she had decided to wear a hijab, how often she prayed, her views about Canadian troops in Afghanistan, suicide bombing, the Muslim Brotherhood, and her views about various well-known Islamic leaders. Bahira recognized this interrogation as an attempt by CSIS to revoke her security clearance in order to fire her. The attempt failed, as Bahira was and is fully deserving of her security clearance.

70. In June 2005 Bahira forwarded a written complaint about William and Charles to the employee association representative, who recounted that she too had experienced discrimination in the Service due to her affiliation by marriage. When the employee representative later divorced, her colleagues told her that she had not been promoted for years because of her ex-husband. The employee association representative emailed a human resources manager decrying the way Bahira

was treated by management and Internal Security, addressing only their lack of knowledge and sensitivity on Muslim culture. The employee association representative discouraged Bahira from filing an official complaint, given possible future reprisals. She asked that Bahira write a memo proposing cross cultural training for managers, which Bahira did. The memo detailed Bahira's experience of discrimination and harassment, as well as feedback Bahira had received from other minorities within the Service about their similar experiences. Bahira was later told that cross cultural training was already part of the Service's training program and management was confident the Service was providing first class training.

71. When Bahira was transferred to another branch in 2005, she expected to, and was entitled to receive the customary certificate of appreciate detailing her accomplishments within the unit she was leaving, and to be honoured in a unit huddle by her Director General. She received no such recognition. She was advised that her manager had instructed the branch's administrator not to issue her a certificate. When that refusal was maintained, and reduced to email, Bahira was able to forward the email to the Director General of her unit, who had the certificate issued. For Bahira, the message was clear. Despite her hard work and success with various projects, Bahira was to be shunned.

72. Bahira's value as an Intelligence Officer was validated in the summer of 2005, when she was called in to assist a foreign Intelligence Service overseas, based upon her unique linguistic profile and skills. For many long months, Bahira was instrumental in an investigation into terrorist attacks where the perpetrators were on the run. She worked long hours and made a valuable contribution to the investigation. Given Bahira's excellent communication skills and knowledge of Arabic / Islamic culture, Bahira was even asked to do a presentation for the host country's security services.

73. Prior to her departure from her overseas posting, Bahira was thanked personally for her contributions by a very senior politician and the head of the host country's security service, who also presented her with a letter of thanks. In an assembly of the host country's security services, Bahira was presented with two appreciation plaques and given a farewell dinner party. In the host country, Bahira's contributions were appreciated and her skills were acknowledged and praised. When Bahira returned to Canada, she was told by the current Deputy Director of Operations that

her work alone resulted in Canada's Solicitor General, Anne McLellan, receiving an official thank-you from the foreign government as well. However, Bahira's work was not even acknowledged by CSIS.

74. In March 2006, Bahira transferred to the CSIS Toronto Region, but the unwarranted aura of suspicion followed her. Again, Bahira was not given necessary access to any source files, although others who joined her unit afterwards experienced no such difficulty.

75. Bahira immediately felt that the culture in the CSIS Toronto Region office was toxic. On Fridays, employees would hang out in a senior manager's office drinking and engaging in unprofessional and often politically incorrect banter and flirtation. Bahira was often mocked by the employees that were on the "inside" of this group.

76. In 2006, Bahira heard that she was rumoured to be friends with the Khadr family. Bahira had no connection with the Khadr family and had no idea why anyone would think she did. A colleague later told Bahira that she did not talk to Bahira for 3 years because she heard these rumors, and everyone she talked to in the Toronto Region had heard the same thing.

77. In 2007, seeing Bahira in the hallway, an allied security force delegation asked why CSIS would hire a Muslim female with a hijab. None of the CSIS management present defended the decision or said anything positive about Bahira's contributions.

78. Between 2007 and 2008, William became Bahira's unit Chief again. When Bahira found herself on the elevator with William and another manager, the latter remarked in a jocular manner that William and Bahira should have a discussion in order to work out a better working relationship. This comment came out of the blue. Bahira observed William become uncomfortable, however William said nothing, and never did offer to have such a discussion. Bahira knows that William was aware of Bahira's complaints.

79. William continued his harassment of Bahira, including through directions given to his Deputy Chief Ben. Ben routinely dismissed Bahira's initiatives, blocked her training opportunities, and questioned her about attending Muslim events. On one occasion, when Ben was grilling Bahira about attending the annual 'Reviving the Islamic Spirit' conference, Bahira asked if

William was aware of Ben's questioning, and Ben stated that in fact, he was carrying out his instructions from William.

80. In October 2010, Bahira was transferred back to CSIS headquarters in Ottawa. Bahira qualified for the transfer allowance normally provided to all employees, however the Regional Director General, Evan, made it a condition for her transfer that she receive no transfer allowance. Bahira left the Toronto Region and was not given an appreciation certificate.

81. Disheartened by the ongoing sense of exclusion from the workplace, but still keen to carry out CSIS work, Bahira decided in 2011 to seek a foreign posting. Given her previous experience in her foreign deployment in 2005, and her linguistic skills (4 languages), Bahira knew she was exceptionally qualified. She met with the Director General of the International Region to express her interest, and during that meeting she was asked how many children she had, and how old they were. She advised that she had 2 young children. She was interviewed by a panel, but not offered a position.

82. Bahira later found out that individuals in her unit with less experience and more limited qualifications were offered postings. She submitted a grievance to the Assistant Director of Operations, but her grievance was denied.

83. In July 2011, Bahira then applied for a level 9 promotion and was again unsuccessful. Bahira continued to work and perform to the highest standards, and she watched others succeed in the organization, yet it seemed her efforts to obtain promotions and postings were blocked at every turn.

84. In February 2014, Bahira was advised that there were vacancies in the International Region. However, when she asked that her resume be sent to apply for one of the positions, she was advised there were no vacancies and her request for a transfer was not approved, despite every branch across CSIS being short staffed.

85. In March 2014, Bahira was transferred to a different unit. Her then-supervisor encouraged Bahira to apply for the annual level 9 postings and international postings, recognizing she was a strong candidate. Bahira did so but again was denied the postings. Bahira then learned that two international region postings had been offered to individuals who did not meet even the basic

qualifications for the postings. Bahira immediately spoke with the employee association representative, who agreed to send in a written complaint. In her complaint, Bahira stated that the Expression of Interest call letter for International Region vacancies did not include a diversity clause as per policy. Bahira noted that the International Region's list of successful candidates were predominately white males, and that a culture exists within International Region that caters towards white males, leaving women and visible minorities unable to break barriers. The complaint was again denied without explanation. Bahira has since learned that the Head of Recruiting and Staffing responded to this issue internally by indicating he did not want to include the diversity clause because it "could create the impression that diversity could somehow be taken into account during the selection process".

86. Bahira then transferred to a different CSIS region. Her new supervisor was vocal and demonstrative about his contempt for Muslims. He posted a picture of women wearing burkas and annotated it with mocking comments, and he refused to take it down when asked. He also frequently engaged Bahira in discussions about her religion, goading her by saying things like 'Muslim women are inferior', 'the future terror threat comes from the children in Toronto's Islamic schools', and 'the Islamic community generally condones extremism'. He also went on at length about how then-President Barack Obama was a member of the Muslim Brotherhood. Bahira did not report her supervisor, since she knew from experience that a complaint would go nowhere, and would be used against her.

87. In November 2016, Bahira applied for a secondment with the Canadian Border Security Agency. As she was the only applicant, she expected to get the posting, however she was told not to get her hopes up. She was told there were concerns with her internal security file. Bahira felt frustrated and completely worn down from constantly battling against the rumours and prejudice. She spoke to her supervisor about the ongoing discrimination she had been facing and left the office in anger. Soon after, Bahira was advised she had been given the secondment - the decision was not supposed to have been made that quickly. Having been told that her managers would not support her in that position, she declined, fearful that she would be set up to fail.

88. Bahira was then interviewed by Internal Security as part of her 5-year security clearance update. For the first time ever, the interview was fast (20 minutes as opposed to 10 hours) and

totally superficial. Bahira concluded that the interviewer had been directed to make it quick in order to pacify her, in light of her allegation of discrimination.

89. By late 2016, the complaint by Alex was a subject of conversation amongst CSIS colleagues, and Bahira knew that the longstanding issues of harassment and discrimination within CSIS were being more openly discussed. A colleague in Toronto told Bahira that the Toronto office had held a Town Hall, and the Regional Director General had down played the harassment issues and basically denied that there was a culture of harassment or reprisals.

90. Now that the 'lid was off', colleagues were communicating more readily about harassment issues. A powerful senior manager, Evan, had been walked out of CSIS offices many months before, and those who had previously feared his wrath were prepared to tell Bahira that Evan held a strong dislike for Bahira as a Muslim woman in the organization, and that he was influential in limiting her career. Bahira could see that she and other Muslim colleagues had been intentionally isolated, excluded and held back because of their religion.

91. In December 2016, Bahira requested, and was reluctantly given the Canadian Human Rights Commission's ("CHRC") Employment Equity Audit Report of CSIS done in 2014. The CHRC's EE Audit Report suggested that visible minorities were under-represented at CSIS, faced barriers to advancement and that they did not receive the requisite training to advance to management levels. The report found that the overall occupational representation for visible minorities in senior management positions was at zero.

Bahira Makes a Complaint

92. For Bahira, the developments in late 2016 were hard to assimilate. For years everything she experienced, felt and saw told her that she was being held back because of her religion. To reach the point of certainty, Bahira felt both vindicated and demoralized. More importantly, she felt utterly betrayed. Over the holiday period, Bahira struggled to deal with her exhaustion, sleeplessness and feelings of helplessness, including by seeing her physician. She returned to work in early January 2017, after the holiday break, but could not go on. She went on sick leave and is now receiving disability employment insurance benefits.

93. Bahira made a harassment complaint in late January 2017. Although she had previously grieved lost opportunities, she had never before challenged CSIS on the fundamental issue that had been undermining her career, discrimination based upon her religion and ethnicity. CSIS' manipulation of Bahira throughout her career, from scrutinizing her relationships outside work and prohibiting her from associating with Muslim organizations, to undermining her within the workplace by ostracizing her, mistrusting her and engendering others to do the same, had become too much to bear.

The Impact on Bahira

94. Bahira has experienced harassment and discrimination consistently throughout her 15-year career at CSIS. For a long time, she tried to look beyond the comments and prejudice and the challenges to her career, thinking that she could prove her value to the organization through her hard work, excellent performance and demonstrable results. However, as she continued to face suspicion and contempt, and as she fell behind in her career progression and was forced to watch more junior, less skilled and predominantly white colleagues obtain the promotions and postings that she had earned, she came to realize that she had been set up to fail. The echelons of management were not only closed to her, but she was regarded by them as a necessary evil – a Arab Muslim who could aid CSIS in working in Muslim communities, but who was not to be trusted.

95. Since late 2016, Bahira has been seeing her family doctor and a psychologist on a regular basis to cope with her symptoms. She has also been diagnosed with Major Depressive Disorder and severe Major Anxiety Disorder, and is taking medication. She has been unable to work since January 9, 2017. Bahira's medical condition has had a significant impact on her quality of life and that of her family, including her young children.

96. Bahira's health and career have been destroyed by the poisonous work environment that fostered the discrimination and harassment she suffered, and which punishes her still for coming forward with her complaints. CSIS has a culture of secrecy which does not accept whistle-blowing or complaints, regardless of the underlying harm. Previously, Bahira was not trusted because she is a Muslim, but now she is not trusted because she is a Muslim who was prepared to speak out

about the manner in which she has been treated. As a result, Bahira's career and livelihood has been fundamentally and irreparably destroyed.

Cemal

Cemal's Background

97. Cemal worked at CSIS for approximately 22 years, most recently at the level 7 rank of Analyst in CSIS' Toronto office. He is a Muslim of Turkish descent.

98. Like Bahira, Cemal experienced harassment and discrimination due to his religion. The workplace was hostile and toxic to Muslims and many other minorities. Also like Bahira, Cemal sought to work around and overcome the prejudices through hard work and achieving results, but he too came to appreciate that this simply was not possible. The culture of CSIS is hostile to Muslims, and this is more than just an unfriendly work environment – it is a deeply ingrained prejudice of distrust for Muslims which has meant that Muslims are used and managed as needed, but are not part of the team.

Cemal's Working Environment

99. During his long career in CSIS, Cemal was often made to feel uncomfortable for being Muslim. Some examples of hostile workplace conduct and events include:

- (a) The Deputy Director General, Toronto Region, told Cemal that he should "Complain to Allah".
- (b) A poster was displayed in the office with the "Ninety-Nine Names of Allah" bearing a picture of the burning twin towers from 9/11 taped to it.
- (c) As a practicing Muslim, Cemal does not drink alcohol, yet at a social function a senior manager who was aware of this repeatedly pushed drinks in front of Cemal, laughing as he made Cemal uncomfortable until Cemal left the room.
- (d) Cemal heard a supervisor explain that she was rejecting job candidates because of their Muslim names.
- (e) A manager told a Hindu employee of Indian descent, "If you don't like things in Canada, you should return to your country".

- (f) Drinking at the office during working hours and sexual affairs between employees were an open and commonplace part of the work culture.
- (g) Cemal witnessed a manager point to a picture of a Muslim woman and say: "She is so ugly. Is that why she wears that thing on her head?". The "thing" he pointed to with disgust was a hijab.
- (h) Another employee told Cemal, in the context of a 9/11 discussion, that he would be "beside the burning mosque", indicating a prejudice against Muslims which made Cemal deeply uncomfortable.

100. Cemal often personally felt the sting of anti-Muslim sentiment directed towards him. In 2006, Cemal was assigned a temporary post as an Analyst during the peak of a high profile CSIS investigation. The lead manager of the investigation assigned Cemal to conduct basic background research and review open source information (i.e., publicly available on the Internet) rather than have him work with source material and assist directly with the urgent and high profile investigation. Given the grossly disproportionate workloads between Cemal and his colleagues, it was evident that the manager deliberately chose not to give Cemal access to files where he could be of use, and Cemal believes this is because he was a practicing Muslim. Cemal's colleagues noticed this disparity and quickly reached the same conclusion as Cemal – the manager felt Cemal was not to be trusted. Cemal's colleagues took their cue and treated Cemal accordingly.

101. In 2011, Cemal was interviewed as part of his regular 5 year Security Clearance update. During the interview he was questioned extensively about his religion, including where he prayed, how many times a day he prayed, the mosques he attended and related questions. When asked, the interviewer claimed to have a personal interest in the questions about Islam, suggesting that this dialogue was not part of the interview, however Cemal's answers were carefully recorded.

102. In February 2016, Cemal sent an email to his supervisor advising that he would be on a family vacation overseas for the month of July 2016. After receiving no response, Cemal booked the tickets. His supervisor then told him that the Deputy Director General, Toronto Region, would not approve leave for more than three weeks and that Cemal should speak with him if he had concerns. Cemal went to the Deputy Director General to discuss the matter, and pointed out that

the limitation sought to be imposed had no basis in policy. Nevertheless, the Deputy Director General maintained his position and Cemal decided not to take the matter any further.

103. The Deputy then retaliated against Cemal for disputing his decision. Cemal's supervisor told him she was instructed by the Deputy to stop giving Cemal Acting Supervisory duties and that the Deputy had called Cemal "a fucking a-hole" who "should be happy he had a job" and if Cemal "doesn't like it he can fucking quit".

104. In October 2016, during Cemal's 5-year Security Clearance update, he told his interviewer that he no longer volunteered at the Islamic center, which the interviewer promptly noted. When Cemal expressed a concern about discrimination, the interviewer asked why he did not just quit.

Cemal's Attempts to Get Promoted

105. Over the course of his employment, Cemal did not receive the internal recognition and promotions that others enjoyed. During his 22 years of work with CSIS, Cemal sought no less than ten career opportunities and was only ever successful with one temporary posting in a developmental position. Although Cemal originally questioned his own performance, and forced himself to work harder and to spend his personal time acquiring new skills, he is now convinced that he has been purposely held back and excluded, and that no amount of work, effort or achievement would be sufficient for him to overcome the distrust and prejudice against him within CSIS.

106. In April, 2009, Cemal applied for two Supervisor positions. At the time, Cemal was Acting Supervisor for his unit, had 15 years of experience at CSIS, and an Ontario Management Development Program certificate. He prepared for interviews for the Supervisor positions with a very knowledgeable Supervisor from HQ, who has done well in obtaining promotions. Cemal was not chosen. As it turned out, the two successful candidates were friends with, and rumored to be in romantic relationships with the hiring managers. Cemal and 2 other unsuccessful candidates took this concern of nepotism to a manager, but he declined to investigate.

107. Cemal's request to see his evaluation score for the position was also refused. Instead, he was asked to assist in training and getting the unqualified successful candidates up to speed to perform their new Supervisory roles, which the hiring manager admitted would take approximately

6 months. Cemal could have stepped into the roles immediately as he was already Acting Supervisor.

108. Subsequently, Cemal and 3 other employees filed an appeal (pursuant to the CSIS Recruitment and Staffing policy), again seeking to challenge the hiring for the 2 Supervisor positions. Upon filing their Appeal, Cemal and the other employees were harassed and pressured to drop their appeal. Cemal was told that one of the hiring managers could charge him and the others with harassment for bringing the appeal. Another senior manager, William, told Cemal to drop the appeal because it would not go anywhere. The whisper campaign that followed led to employees distancing themselves from Cemal and the other employees, who eventually withdrew their appeal out of fear of further reprisal.

109. In February 2012, Cemal applied for a Supervisor position. The position was given to a candidate with half of Cemal's tenure at CSIS. Cemal heard through his supervisor that the hiring manager had said there were reasons Cemal was not picked, which Cemal understood to mean he had been blackballed. His supervisor agreed that the competition was not fair. Once again, Cemal ended up helping the successful candidate with her duties.

110. In 2013, Cemal, who was then in the Acting Supervisor role, was in the pool for candidates to replace his then Supervisor, who had been promoted. Cemal's outgoing supervisor recommended him for the position, and Cemal was optimistic. The day before the position was awarded, the Deputy Director General, Toronto Region, congratulated Cemal on being selected as the successful candidate when he saw him in the hallway. Cemal was elated. However, the next day when the appointment was announced, it had been awarded to another employee with less experience, no university degree, poor writing skills, dismal attendance and poor judgment (all verified extensively, including with investigations after a major security violation).

111. Cemal met with the hiring manager to find out more about the hiring decision, but was only told there was a "file review". Again, Cemal had to assist another new Supervisor in performing the duties of her position, which should have been his. Through the grapevine, Cemal heard that the promotion was his until a manager stepped in to interfere, costing him the job. He did not know the basis for that decision.

112. Initially, Cemal naively believed that his inability to secure a permanent promotion was due to his own shortcomings. As a result, he worked hard, consulted with managers and studied to improve his skills and qualifications in order to maximize his career opportunities. For example, Cemal used his evenings and weekends for three years to take courses and obtain a management certificate, took care to look and act professionally in the office, even when others failed to do so, avoided using his sick leave, was diligent about being on time and completing his daily tasks, demonstrated extraordinary initiative, was always keen to assist coworkers, and stepped up whenever called upon for additional work. Cemal also volunteered with CSIS baseball and social events.

113. In later years, however, Cemal began to see that there was discrimination in how employees were selected for postings and promotions. Despite effort and performance, Cemal was behind his colleagues in career progression. In 2015, the Regional Director General noted, when handing out 15-year service pins during a ceremony for that purpose, that employees of that service level were in supervisory roles. Cemal looked on, with his 22 years of service, in dismay. He had remained in a non-supervisory Analyst position, without a promotion, since 1995.

114. In June 2016, Cemal met with the Deputy Director General, Toronto Region, in his office and expressed his frustration due to his lack of career progression. Cemal asked what he had to do to get a promotion, and the Deputy Director General said, 'I will tell you when I retire'. Cemal interpreted this to mean that the Deputy Director General recognized that Cemal had been blackballed for being a Muslim, but could not admit to it while employed with CSIS.

115. In July 2016, Cemal applied for a level 8 position and made it into the pool of eligible candidates. Cemal's volunteering and other experience were identical to the duties of the level 8 position so he saw himself as a strong candidate. Once again, however, a more junior, less experienced candidate with less education (only a high-school degree, whereas Cemal is a graduate of the University of Toronto) was chosen. In September 2016, Cemal grieved the hiring decision, noting that his education and experience appeared not to have been considered, and that for 22 years, he was somehow always bypassed in favour of less qualified candidates. Cemal pointed out that he had made significant contributions and suggestions for improvement that were adopted by

CSIS pertaining to confidential operational matters of national security, which should have made him a star candidate for this particular position. Cemal's grievance was denied.

116. In September 2016, Cemal applied for another level 8 position but again was not chosen. Informal feedback again suggested that somebody was actively blocking Cemal's promotion attempts.

117. In October 2016, Cemal applied for 3 pilot project positions. Candidates had to write a difficult and technical 3-hour exam. On November 17, 2016, Cemal was informed that the exam results were tabulated and the managers wanted to have a brief, informal chat with candidates. In actuality, this was a full board interview. Cemal was well prepared and performed well. Nevertheless, he was not one of the 3 successful candidates.

118. Cemal dropped in on one of the managers and requested feedback on his application. Cemal was told he had come in second place on the written test out of all the candidates, but that the interview had been weighted more heavily, and Cemal's overall score was insufficient. Cemal perceived that the manager was nervous and once again Cemal concluded that somebody had denied him the opportunity, despite his performance.

Revelation of Blatant Discrimination - Fall of 2016

119. In the fall of 2016, Cemal contacted Alex because he knew that Alex had made a harassment complaint, and Cemal felt that he could not continue to go on being discriminated against without taking action himself. He found out from Alex that he was regularly referred to as "Imam", "Sheikh [Cemal]" and "Muslim Brotherhood" by the Deputy Director General, Toronto Region, the Toronto Region Deputy Chief, Counter Terrorism, the Toronto Region Deputy Director General, Corporate Services, and several other Toronto managers. Cemal spoke to his supervisor, who confirmed this was true.

120. Alex also told Cemal that in 2007 - 2010, during a very high profile CSIS investigation, Alex and other employees with whom Cemal worked, were instructed by two senior managers to be very cautious about revealing any information to Cemal. Alex was warned that "We cannot trust [Cemal], since he was part of that community and socialized with our targets' friends."

121. Cemal was devastated. Although he always believed that his religion had been held against him, to find out that his loyalty, hard work and good faith attempts to progress within the CSIS system were meaningless, and that he was judged only as a threat to the organization, and mocked behind his back, was extremely difficult to bear.

Cemal Makes a Complaint

122. In December 2016, following the final rejection of his appeal regarding his July 2016 application for a level 8 position, Cemal came under attack. A senior manager, on whose investigation Cemal was then working, launched an impromptu and unfounded investigation into Cemal's performance and attendance. The manager solicited a complaint about Cemal's work performance, which was then circulated to all managers in Toronto Region.

123. Cemal's internet usage (i.e., browser history) was also audited. Cemal made inquiries and learned that only two other internet audits had been conducted in the Toronto office and both of them were of Muslim employees, one of whom was Bahira.

124. Cemal was able to defend himself against the complaint elicited through the senior manager's impromptu investigation, as Cemal is a good worker and the complaint was unfounded. However, the fact of, and very visible nature of the attack on Cemal served its purpose, once again reminding the Toronto office that Cemal was blackballed.

125. Unable to continue to respond to the harassment and discrimination, and burdened by the knowledge that his managers held him in contempt, Cemal was physically, mentally and emotionally drained. He decided he had nothing left to lose and therefore he might as well make a complaint of discrimination. He did so even though he was warned against it by his colleagues, who noted that his life would only get worse if he decided to stick up for himself.

The Impact on Cemal

126. Cemal has experienced harassment and discrimination consistently throughout his 22 year career at CSIS. He has seen others who started with him or after him, move up the organization's ranks, while he remains a Level 7 and has not been able to get a promotion for 21 years.

127. Cemal has been diagnosed with stress, anxiety and depression. Cemal is taking medication and has been unable to work since January 24, 2017, and thus forced to use sick days. Since Cemal has been on stress leave he has regularly been attended to by his family doctor and psychologist. He feels betrayed by an organization to which he was committed.

Emran

Emran's Background

128. Emran has worked at CSIS as an analyst for 12 years, since 2005. He has consistently achieved above-average performance ratings, has received several merit awards and has been deployed in high priority, sensitive and complex investigations. He is a Canadian citizen of Moroccan birth and of the Muslim faith. He is fluent in 5 languages. He held an international post from 2011-2013 but has otherwise worked within Canada.

129. Despite the positive official recognition of Emran's work, he has been targeted by powerful individuals within CSIS, and harassed and discriminated against based upon his race, national and ethnic origin, and religion. Certain individuals have made a point of singling out Emran to harass him, isolate and ridicule him. It is clear to Emran that because of his Arab Muslim background, he is both a necessary tool to CSIS and the work it seeks to do, and at the same time he is not trusted by many powerful individuals in the organization. In short, he has been engaged as a dedicated, loyal and committed employee of an organization that is extremely demanding of its employees, often for the best possible reasons, namely the safety and security of Canada, while at the same time his loyalty has been repaid with deliberate manipulations and harm.

130. Although he has been proud of the work he has done for CSIS, he can no longer take pride in, or respect, an organization that does not respect him, or the other religious, ethnic or racial minorities who are employed there as essential to CSIS' mission, but working without CSIS' trust and respect.

Emran's Working Environment

131. In 2007, Emran was introduced to his new boss, William, who met with all employees under his control to learn about their skills, and knowledge and the work they were doing. When Emran met William, it quickly became clear that William was suspicious of Emran, hinting that

Emran must have learned intelligence skills through some other intelligence agency. Emran was dumbfounded. He was an honest and loyal employee and Canadian who, like other employees, had passed through a rigorous screening process before joining the Service.

132. The distrust and suspicion that William conveyed upon first meeting Emran was reinforced by others in the workplace. Following Emran's meeting with William, Emran became targeted by an intelligence officer, Ken, who was closely aligned with William and known as his "right hand man". Ken frequently made remarks in the workplace, in front of others, designed to suggest that they should distrust Emran. For example, Ken would publicly demand to know "who are you more loyal to, our Queen or the King of Morocco?", or "Who the hell are you exactly?". He would also publicly comment to others, in front of Emran, "Watch out for the Moroccan spy", or simply refer to Emran as the Moroccan spy. Ken would also make anti-Muslim comments in Emran's presence, such as "All Muslims are blood thirsty murderers", or "All Muslims are terrorists".

133. Between 2007 and 2011, Ken and William were actively engaged in mocking Emran in the workplace and alienating him from his colleagues. Rumours were spread, suggesting that Emran was a mole in the organization and not to be trusted. The comments, insults and innuendo were intentionally hurtful and designed to isolate and undermine Emran among his colleagues. This was not mere misguided office banter, but rather hatred based upon religious, ethnic, national and racial identity.

134. In 2011, Emran obtained an international posting. In light of that appointment, Ken told colleagues that Emran had "slipped through the cracks" of the system, implying that CSIS had not properly vetted Emran and that he presented a security threat. In an organization built to focus on national security, this was the most damning type of an attack that could be made.

135. In preparation for Emran's international posting, Emran engaged in a training course with other CSIS employees, over a number of weeks. Ken was also trained at the same time, and he went out of his way to insult and ridicule Emran. During breaks from the training sessions, Ken would warn the other participants against Emran and the other couple of Muslim attendees, telling them that the Muslims were not to be trusted, and to watch their backs. Comments were also made during training sessions, in front of the training coordinators. Ken would say things like "Muslims and armed weapons are a bad mix", or he would turn to Emran and say, "Please don't shoot me".

These attacks were relentless, and clearly made some participants in the group uncomfortable, but nobody spoke out, including the trainers.

136. Emran felt belittled and humiliated with the ongoing personal attacks on him, attacks that were so blatant that they could only be interpreted as a display by Ken that he was untouchable. Emran did contemplate making a complaint, but he was reluctant because he knew that Ken was protected by William and Evan, both powerful senior members of CSIS management. He also knew that Ken was a bully and had seen Ken bully others as well as himself, and knew that Ken had never suffered any consequences for his bullying.

137. One day after class, Ken and Emran were returning to the hotel with two other employees, and Ken said Emran's wife looked "creepy", eliciting laughter from his colleagues. Shortly thereafter, when Emran's group was doing an exercise in the forest and encountered Ken's group, Ken ushered his group away, saying "let's get out of here before the Muslims behead us". There were other Arab Muslims in Emran's group.

138. Ken's conduct was visible to all group participants and was creating tension in the training class. Emran was approached by the course instructor, who was also then president of the employee association, who told Emran that he had overheard two female employees (those that had been in the car when Ken insulted Emran's wife), speaking about him. Those employees indicated that if Emran complained about the harassment, they would allege sexual harassment. Emran was stunned. He was not sure whether the instructor appreciated it or not, but the instructor had been used to threaten Emran. Any thoughts Emran then had of making a formal complaint vanished.

139. Emran left Canada for an international posting in 2011, and remained in that posting until 2013. In that posting, he quickly learned that his new boss, Jeff, did not support his appointment, as his boss told him, in the most colourful and emphatic language, that analysts were "fucking useless". Emran hoped to overcome this opinion, but it never happened.

140. In fact, Jeff had a problem with Arab Muslims. He told Emran, "I want you to take care of the liaison with the 'Sand Monkeys' because you are one of theirs and you speak their language". Speaking of the host country representatives, Emran's boss said, "They're going to like you and

relate to you. They're just a bunch of Sand Monkeys". Emran's boss would refer to Emran and other Arab Muslims as "Useless Sand Monkeys".

141. Throughout his overseas appointment, Emran was held in contempt by Jeff, who denied him support, including the most basic introduction to the office and environment. Worse, his boss actively worked to exclude him from work functions by withholding information and invitations directed to Emran and his family, effectively isolating Emran. Emran came to learn more of this as his contacts in other agencies would mention that Emran had failed to attend this function or that function, and that Emran's boss had been there making negative comments about Emran. In fact, his boss went further and actually disclosed Emran's role to others, in breach of his oath of secrecy, and placing Emran and his family at risk.

142. During his appointment, Emran was also asked to undertake sensitive operations and risky activities outside of his job description. He did as requested, believing the work was important, and hoping that he could improve relations with his boss and earn his respect. Not only was Emran not properly compensated for the risks he undertook, but those risks may have exposed him and his family to peril. For example, on one occasion a driver attempted to force him off the road. Emran's family was in the car at the time. On another occasion, somebody broke into Emran's home. Emran reported these incidents to his boss, who was dismissive and yet uncomfortable, and emphatically directed him not to report it to Canada. Based upon Jeff's demeanour, Emran concluded that his boss might have some knowledge of, or involvement in, the difficulties Emran experienced.

143. This posting was extremely stressful for Emran. The tensions with his boss and the social isolation that he engineered, had burdened both Emran and his wife. Ultimately, their marriage broke down. Nevertheless, CSIS considered the posting a success and Emran was offered an extension. He refused and returned to Canada.

144. Upon his return to Canada, Emran went through an internal security debriefing in which he reported on events from his posting. Emran disclosed the harassment and unusual events from his time abroad in the expectation that a personal security review would be undertaken for him, but no such review took place. Indeed, there were not even any follow up questions asked of him.

145. Almost immediately upon this return in the fall of 2013, Emran encountered senior managers Simon and Harold in the elevator. Simon turned to Harold and said "I'm gonna fucking target this guy and the director said he won't oppose it". Simon stepped out of the elevator, and red-faced, Harold turned to Emran and said not to take Simon seriously, before he too departed. Emran was stunned. He knew he had been targeted, but he had no idea that this attitude had been adopted by the highest levels in the organization. Emran had never before worked with or for Simon, yet Simon was out to get him. Emran was utterly shaken and no longer knew who to trust.

146. A short time later, William sought Emran out when he was alone. He said, "Oh, you're back. How is it going for you now?", while pointing to his head in a gesture suggesting that Emran was mentally ill. Emran felt threatened and departed.

147. Emran's working environment continued to be challenging. Rumours and comments were made that Emran was "a sexual deviant", "homosexual" and "dangerous". Emran knew these rumours were unfounded and he believed that they were circulated by Simon, William, Ken and others who had demonstrated they desired to drive him out of CSIS. Another rumour was circulated that Emran was being sought by the Arabs and they were out to get him. Emran was concerned about this rumour, and wondered whether his work in his overseas posting was threatening his future, or whether this was just another attempt by management to undermine him with his colleagues, making him vulnerable to character attacks.

148. The threats and rumour-mongering were part of the craft of manipulation and deceit that was the stock and trade of CSIS agents, and Emran recognized these techniques being used against him, to undermine his mental well-being and career, all of which was extremely stressful.

149. Although Emran struggled to just do his job and get along, he was increasingly isolated and ostracized in the office. He sought to go above Simon to seek some relief, but repeated attempts to get a meeting with the then Regional Director General were refused. Ultimately, in early 2014, Emran's mental health deteriorated and he could not continue to come to work. He was off work for several months.

150. When Emran returned to work, he attempted to keep a low profile. This was easy, as his colleagues ignored him. Emran focussed on getting through the work day and was busy with his

personal issues, regularly visiting his ailing mother in Montreal. For that reason, he was pleased when his boss offered him a secondment to Montreal, and he agreed. He was then told that the secondment was subject to Simon's approval. That approval was denied, without explanation.

151. In or about late 2015, Emran began to hear from friends and acquaintances that somebody was asking about him. These same people expressed surprise that Emran continued to work for the Canadian government, and they warned him to be careful. These warnings chilled Emran. Given his activities in his international posting, and the threats he had received from those within CSIS, Emran was not sure who was behind these threats.

152. In 2016, Emran went through his regular security clearance update process, without difficulty, despite the strange rumours floating around about him. He took the opportunity of that meeting to once again raise the harassment and discrimination he had experienced, however once again, these issues were ignored.

153. Despite the utter lack of support for Emran during 2013 to 2016, Emran continued to perform extremely well, achieving excellent results for the Service. Notwithstanding this, management refused to recognize his achievements in any way. Indeed, Simon repeatedly told Emran's supervisor that he simply would not allow it.

The Impact on Emran

154. In May 2016, Emran's ailing mother died. To this point, Emran had been surviving the workplace stress by focussing on the needs of his mother. Her death hit him hard. All of the workplace stress and anxiety that he had been trying to ignore, crashed in on him. On the advice of his doctor, Emran went on sick leave.

155. Emran has been unable to work since September 2016 because of the stress, anxiety and depression arising from the racism and religious discrimination in the workplace. Because of the work Emran has undertaken for CSIS and Canada, his personal security has been placed in jeopardy, and CSIS has failed to take the steps necessary to ameliorate that harm, once again demonstrating indifference for his personal well being. His working conditions, and the lack of support, responsibility and leadership shown by CSIS management, have destroyed his mental health, and wreaked havoc with his personal life. Emran is currently on long-term disability.

156. When the Alex harassment issues took hold of the Toronto workplace, Emran was contacted by his supervisor, who was trying to determine whether Emran had been in contact with Alex. On or about January 19, 2017, Emran's supervisor warned him against standing up for himself, stating:

"be careful. They have more means to sustain legal action than you will";

"You don't want this to backfire";

"At the end, you will be the one who will suffer more";

"Let it go, you be the better person";

"You will suffer more, believe me. Not the kind of people you want to go against".

157. Emran was also contacted by telephone several times on the same day, requesting that he return to work. He was assured that there were "promotions coming" and was offered his choice of foreign postings. He was also told to "think of his children". These warnings and promises were too late. Emran had spent his career at CSIS trying to find a way through the harassment, and he knew it was not possible.

Dina

Dina's Background

158. Dina has worked for CSIS for 16 years, since 2001. She is a level 9 Intelligence Officer with supervisory duties. She is a Francophone, and was the first black woman at CSIS. Since 2008, when Dina was promoted to level 9, she has been the subject of a sustained harassment effort on the part of her coworkers, superiors and subordinates.

159. Dina has been on sick leave since January 16, 2017 with symptoms of post-traumatic stress disorder, anxiety, depression and insomnia. She has seen her family doctor and her psychologist on a regular basis since then.

Dina's Working Environment

160. Dina joined CSIS eager to support its mission. As a black woman, she was familiar with discrimination, and knew it was possible that she would face challenges in the organization. She worked hard and achieved results and reached a level 9 supervisor position in 2008. In doing so,

she broke new ground in the organization, which is predominantly white, and which has few minorities at supervisory levels, and essentially no minorities in management. At that point, many members of management, as well as Dina's colleagues, appear to have concluded that she went too far. The token black woman was promoted without merit, and she would be made to suffer. From the very beginning, when she received training for her new position, she was greeted with hostility and resentment. She was shunned by her new colleagues and given no support. This set the stage for the years to come.

161. Despite Dina's solid performance prior to her level 9 promotion, including her positive performance reviews and her work in Australia, the perception was that Dina did not deserve her position. The thinking behind this attitude was conveyed to Dina by one manager who remarked "it's people like you the Service likes to promote. I am sure in no time, you will probably be my boss".

162. In Dina's first level 9 position in training, her male colleagues criticized her and mocked her, rather than supporting her. This treatment was in marked contrast to a white female colleague, who was nurtured by this group. At this point, while working in Ottawa, Dina noticed that she was often called into her manager's office to be given unfiltered criticism that was more gossip than anything. She perceived that her manager had been seeking feedback directly from Dina's employees, and was providing that feedback to Dina in an effort to undermine Dina's relationship with her employees, and Dina's own confidence. This kind of conduct has continued through Dina's career.

163. For the last nine years, Dina has regularly endured snide remarks that she was only promoted because she is a black woman. More than that, she has been treated with disrespect by her managers and colleagues which has set the stage for her employees to treat her in the same fashion, and many of them have done so. It has become an accepted game to mock, undermine, work around and complain about Dina to her managers, 'because everybody knows that she is not liked by her managers, she is not good at her job and she was only promoted because she is a black woman.

164. Since 2008, Dina has been fighting to overcome the stereotype that she does not deserve her job, and for a long time she tried to look beyond the comments and prejudice and the challenges

to her career thinking that she could prove her value to the organization through her hard work, excellent performance and demonstrable results. This has become increasingly impossible. Over the years, many of those in the organization who previously supported Dina or were friendly with her, have drifted away due to the ongoing rumours that Dina cannot cut it and does not belong. She has been isolated and ostracized, ridiculed and shamed, all without foundation, and as part of a pattern of harassment that a resentful few set in motion.

165. Over the years there have been many, many comments directed at Dina, as well as differential treatment, all of which has taken a significant toll. For example, Dina has often had meetings with internal groups which include her colleagues and her subordinates, and she has seen how her managers' rude and dismissive conduct towards her has been absorbed and adopted by her colleagues and staff. She is routinely ignored or cut off when speaking. This example, set by Dina's managers as well as her colleagues, has been picked up by her own staff. She has often sat in meetings with her own employees and experienced rude and dismissive behaviour, such as eye-rolling, slouching and refusing to make eye contact, smirks between staff and interruptions and aggressive language. Staff have learned to do this as part of the "shared joke" of mocking Dina, the token black woman.

166. An example of active character assassination took place in December 2011. At that time, Dina was told to ensure 50% occupancy of the unit over the holidays. As there was only one other person in the unit, one of them had to work the holidays. As the supervisor, Dina asked the employee about his plans, and he assured her that he would be in town for the holidays and encouraged her to take the time off for a vacation. Indeed, knowing that she was considering a European holiday, he told her to book her flight. Dina then did so. A few days later, Dina learned that the employee had informed the Deputy Director General, who in turn informed the Director General, that Dina had refused to allow him time off during the holidays to visit his sick mother. Fortunately, Dina had kept her supervisor in the loop on her discussions with the employee, and her supervisor was able to correct the Deputy Director General and Director General, who were otherwise fully prepared to believe the worst.

167. In a recent discussion between Dina and one of her subordinates, Susan, in which they disagreed on a work matter, Susan told Dina that no one liked her and that everyone complained

about her, and that people are afraid of talking to her. Susan went so far as to yell at Dina, even following her down the hall with a raised voice, apparently enjoying the theatre of showing that she could attack Dina. That same employee, who was friendly with Dina's boss Simon, also frequently and aggressively questioned Dina about various decisions that she made, taking information back to Simon and the other managers such as Claude, to whom she also complained that she has been trying to provide constructive criticism to Dina about how to do her job.

168. This was one of several incidents in which Susan yelled at Dina. Susan also actively interfered with Dina's supervision over other employees, and with Dina's relationship with her boss, Simon, in both cases by intentionally providing misinformation. This conduct was known to Simon, who appeared to encourage it, even knowing that it undermined Dina's authority and ability to do her job, not only with Susan but with other employees in her unit.

169. The events with this particular employee culminated in June of 2016, with Dina deciding to bring a complaint of harassment. Her previous attempts to bring her concerns about harassment and discrimination forward had always been met with "friendly" advice to let it go, and Dina had backed off. On this occasion, Dina determined to make both a harassment complaint, and a complaint that the code of conduct had been breached, because Susan's conduct was not only aggressive and humiliating, but it was conduct designed to undermine Dina's ability to function in the workplace and as a supervisor, and it followed a pattern Dina had seen with manager's in the past.

170. Dina submitted her complaint documentation, directed to the Director General, Simon, and the Staff Relations Chief. However, the Staff Relations representative followed up and indicated that the Director General thought the issue was properly addressed as a code of conduct issue alone, and that it appeared to be a breach of same. She was asked to reconsider moving ahead with the harassment complaint. Pressured, Dina agreed to limit her complaint to the code of conduct issue alone.

171. Next, Dina was told to meet with the Director General to discuss her complaint. When she did so, he said the issue was really just a supervisory matter. Frustrated with the disingenuous response from the Director General, Dina insisted on proceeding with the code of conduct complaint and investigation, and completed and delivered the necessary documentation. She later

followed up with Staff Relations to inquire into the status of the investigation, and was told that Simon had taken on the investigation himself, and that Staff Relations was not to do the investigation.

172. A few weeks later, the Director General contacted Dina to tell her that the complaint was unfounded. When Dina met with the Director General, he assured her that Staff Relations had fully and properly investigated the complaint, by the book, and that it simply was not made out. In fact, neither Staff Relations, Director General or anybody else conducted any investigation. Not realizing Staff Relations had already told Dina that Simon had decided to conduct the investigation himself, Simon later told Dina that he was not involved. He assured her that he, personally, was not racist, and not to worry about her subordinate's conduct because Dina would soon be moved to another working environment. Dina reminded Simon of the fact that moving to a new unit would not make a difference as the harassing behaviour had followed her from job to job since 2008. Simon repeated that Dina should not worry.

173. Dina was moved to a new branch. On her arrival, she learned that 3 individuals had sought transfers after finding out she was coming, because they did not want to work for her. Dina felt completely demoralized, but once again tried to carry on with her work. In this new unit, the same undermining behaviour continued.

174. Like other employees, Dina learned that Alex had made a harassment complaint and that an investigation was underway, and indeed, she was a potential witness. Like many other employees, at the conclusion of the investigation Dina was frustrated and angry to hear management essentially deny that the investigation had revealed any problems. In fact, Dina believes that Simon discouraged her from complaining and failed to conduct an investigation into her case out of fear that, together with Alex's harassment complaint, it would show there was a significant and systemic discrimination and harassment problem in the Toronto office, into which Simon figured prominently. A senior manager in the Toronto office had already approached Dina and discouraged her from providing evidence in Alex's investigation, noting that witnesses could be sued for defamation.

175. Ultimately, Dina spoke with Alex who was able to confirm that from inside the manager's Friday afternoon drinking circle, Dina was a joke. Dina's colleagues would openly complain about

her to the managers, but the running response was always, "you know you can't touch her", in reference to her being a token black woman in the Service. The employees or colleagues who complained were immediately believed, they were not discouraged from making unfounded complaints. Indeed, senior managers in Toronto had begun to openly refer to Dina as "the problem". Character assassination of Dina was literally encouraged. One senior manager disclosed his hatred and mistrust of Dina to those working for him, including non-management personnel, in the presence of other managers, none of whom spoke up against such conduct.

176. Simply put, Dina was not supported, liked or even really tolerated by other members of management, all of which had been picked up by colleagues and subordinates, many of whom likewise treated Dina with contempt.

177. On January 13, 2017, Dina was reprimanded by a Chief-level officer after she failed to attend a workplace luncheon for an employee that had openly harassed her since her arrival in the new unit, and who had not abated her conduct even when warned by the same Chief-level officer.

178. Dina worked hard and performed well, and achieved the level 9 position in 2008. Until that point, Dina's managers supported her, including indicating that they would recommend her to the management development program. Her next promotional step would have required that support, but the support and further promotion was denied her, notwithstanding that her performance continued to be excellent.

179. Given Dina's positive performance, and her early career success, it appears that the workplace truly turned against Dina when she finally raised concerns that the harassment she faced was racially motivated. In voicing her concerns about racial discrimination, Dina crossed the line with the "old boys club" culture of CSIS, which privileges white, heterosexual males, and tolerates little else.

The Impact on Dina

180. The harassment and discrimination, and CSIS management's refusal to recognize or help Dina, and in fact to actively undermine her, including by refusing her access to a fair complaint mechanism, was all too much for Dina. She left work ill in early January 2017, and has not been able to return.

181. Dina continues to experience the psychological and emotional impacts of the workplace harassment and discrimination. She is anxious and fearful, and has experienced physical symptoms, including sleeplessness and nausea. Her quality of life and her social and family life have been and continue to be harmed by her experience in the workplace.

THE WRONGFUL CONDUCT AND ITS IMPACT ON THE EMPLOYEES

Forms of Wrongful Conduct

182. The Employees have experienced discrimination, harassment, bullying and abuse of authority in various forms, including the following:

- (a) Discrimination, including in relation to gender, race, sexual orientation, ethnicity, religion;
- (b) Name calling, insults and put-downs, and personal attacks about their private lives or personal attributes, as well as spreading rumours;
- (c) Withholding information or responsibilities;
- (d) Withholding training or other job opportunities;
- (e) Sabotaging another's work, or otherwise interfering with their work;
- (f) Setting unrealistic goals or deadlines;
- (g) Punitive transfers, or refusals to transfer;
- (h) Improper, unwarranted or disproportionate criticism or discipline, and trivial fault-finding;
- (i) Acts designed to humiliate, embarrass, exclude, isolate or denigrate;
- (j) Excluding an Employee or singling an Employee out for unusual treatment;
- (k) Assigning menial tasks below the Employee's abilities or outside of their job tasks;
- (l) Undermining an Employee's performance, career, or career opportunities;
- (m) Acts meant to affect working conditions or career development;
- (n) Acts intended to cause emotional stress, anxiety and psychological harm;

- (o) Inappropriate questioning regarding the Employee's personal life;
- (p) Inappropriate use or disclosure of confidential information about the Employee;
- (q) Threats and reprisals for questioning, complaining, grieving or seeking assistance to deal with discrimination, harassment, abuse of authority and bullying; and
- (r) Wrongful and/or bad faith use of internal administrative and discipline processes and managerial discretion.

The above is collectively referred to as the "Wrongful Acts".

CSIS Management Failures

183. The discrimination, harassment, bullying and abuse of authority suffered by the Employees has been made worse by CSIS management failures, including:

- (a) Maintaining and permitting an organizational culture which fosters harassment, bullying and abuse of authority;
- (b) Refusing to recognize Wrongful Acts as wrongful, or complaints as valid;
- (c) Wrongly asserting that misconduct was a reasonable exercise in managerial discretion;
- (d) Failing to properly supervise the workforce, including in particular members of management, to prevent or minimize the risk of Wrongful Acts;
- (e) Ignoring complaints;
- (f) Failing or choosing not to recognize problems, even where the circumstances warrant investigation, such as where:
 - i. multiple complaints within a working group and/or against an individual manager are made;
 - ii. many employees in a working group are ill and/or seek to be transferred from a working environment;
 - iii. Poor morale, poor performance and/or increased tensions within a working group; or

iv. High absenteeism within a working group.

- (g) Failing to properly investigate complaints in a timely way, properly, impartially, or at all;
- (h) Failing to hold accountable those individuals found to be in breach of applicable legislation, policies, procedures, and guidelines;
- (i) Engaging in or permitting retaliation for raising discrimination, harassment, bullying and abuse of authority concerns;
- (j) Failing to act, and/or failing to perform an adequate or any investigation or review, particularly when undertaking to do so, and/or failing to act when wrongful conduct is disclosed;
- (k) Failing to maintain or enforce proper procedures to prevent or minimize the risk of Wrongful Acts;
- (l) Failing to adjudicate complaints fairly, or at all;
- (m) Shunning complaints and complainants;
- (n) Penalizing complainants and/or rewarding those engaged in discrimination, harassment, bullying and/or abuse of authority by, for example, promoting the wrongdoer, removing the complainant from the workplace, permitting the harasser to remain in the workplace, often including in physical proximity to the complainant and/or in a position of authority over the person(s) harassed, and ostracizing complainants;
- (o) Protecting or deferring to employees who are more senior in the organizational structure;
- (p) Failing to act honestly, impartially and responsibly; and
- (q) Failing to carry out appropriate or any remedial action in relation to discrimination, harassment, bullying and abuse of authority.

The above are collectively referred to as "CSIS Failures".

184. CSIS has perpetuated a culture of discrimination, harassment, abuse of authority, and bullying by its inaction and denial. CSIS management has provided leadership to the workforce showing that the wrongful conduct is acceptable and complainants will be silenced.

Harms Suffered by the Employees:

185. The Wrongful Acts and CSIS Failures have caused the Employees to suffer:

- (a) Loss of reputation
- (b) Loss of income or income opportunities, including overtime, pension compensation and promotions
- (c) Anger, cynicism, depression, fear and humiliation
- (d) Loss of morale, social isolation and maladjustment
- (e) Feelings of incompetence, powerlessness, psychosomatic illness, fear of returning to work
- (f) Temporary or permanent incapacity requiring medical attention
- (g) Stress, including Post-traumatic stress
- (h) Problems with interpersonal relationships
- (i) Loss of confidence in self and others
- (j) Anxiety, nightmares, and panic attacks
- (k) Rage, feelings of humiliation
- (l) depression
- (m) work disruption
- (n) Loss of self esteem
- (o) Feelings of degradation and discomfort
- (p) Psychiatric affliction

The above are collectively referred to as the "Employee Harms".

CSIS' LIABILITY

186. CSIS is directly and vicariously liable for the Employee Harms arising from the Wrongful Acts and CSIS Failures carried out by the Service directly and/or through its agents.

CSIS's Duties

187. At all material times, CSIS owed the Employees duties to ensure that they could work in a safe environment, free of discrimination, harassment, bullying and abuse of authority. Such duties include the obligations to:

- (a) Ensure a safe, discrimination and harassment free work environment, promote health, safety and well-being and ensure adequate human, financial and material resources;
- (b) uphold Charter values and protect Charter rights and rights contained within the Canadian Human Rights Act, including equal treatment regardless of gender, race, sexual orientation, ethnicity or religion;
- (c) Establish, maintain and follow adequate internal processes, guidelines and regulations respecting, discrimination, harassment, abuse of authority, bullying, and discipline;
- (d) Educate, supervise and appropriately monitor and discipline CSIS employees on matters relating to discrimination, harassment, abuse of authority and bullying;
- (e) Use reasonable care to ensure the health and safety of the Employees;
- (f) Develop, provide and maintain safe work environments for the Employees;
- (g) Investigate discrimination, harassment, abuse of authority and bullying when complaints are made or circumstances warrant;
- (h) Address circumstances of discrimination, harassment, abuse of authority and bullying, including by providing assistance and redress to the Employees and transparent and appropriate discipline to perpetrators; and
- (i) Take all reasonable steps to prevent Wrongful Acts, CSIS Failures and Employee Harms.

The above are referred to collectively as "CSIS' Duties".

Harassment

188. The conduct of CSIS, and those within the organization for whom CSIS is liable, was outrageous. It was intended to, and did, cause the Employees emotional stress or was carried out with a reckless disregard for whether it would cause the Employees to suffer from emotional stress. Each of the Employees did suffer severe or extreme emotional distress, the proximate cause of which was the Wrongful Acts and CSIS Failures, for which CSIS is directly and/or vicariously liable.

Negligence

189. At all material times, CSIS owed the Employees a duty of care to carry out those obligations identified as CSIS' Duties. CSIS breached its duty of care by permitting the Employees to suffer Wrongful Acts and through CSIS Failures. These breaches have resulted in the Employee Harms.

190. CSIS and its management knew, or ought to have known, that the Wrongful Acts and CSIS Failures described above were occurring and were of a nature that would cause the Employee Harms to the Employees. The Employees are entitled to damages from CSIS as a result.

Breach of Contract

191. The Employees each have a contract of employment with CSIS. Those employment agreements contain the following express and/or implied terms:

- (a) CSIS and its agents had and continue to have an obligation of good faith and fair dealing towards the Employees;
- (b) CSIS will adhere to the principles of due process, fairness and natural justice in all dealings with the Employees;
- (c) CSIS will ensure that employees, and particularly members of management, adhere to, uphold and actively enforce the Code of Conduct and will use best efforts to ensure that the policy against harassment and discrimination is not violated, and

where it is violated, will ensure that known or suspected violations are properly investigated and victims are provided appropriate support and redress; and

(d) CSIS will fully and properly carry out CSIS's Duties.

192. CSIS breached its obligations to the Employees owing under their employment agreements, by reason of the Wrongful Acts and CSIS Failures, giving rise to the Employee Harms that have followed. The Employees are entitled to damages as a result.

Breach of the Charter

193. The Charter provides that every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. The Charter also enshrines the fundamental freedom of religion.

194. The Employees state that some or all of the Wrongful Acts perpetrated against them, and/or the CSIS Failures were discriminatory, contrary to the protections outlined in the Charter and constitute breaches of the Charter. The Plaintiffs state that these breaches caused the Employee Harms. The Employees are entitled to damages as a result.

Vicarious Liability

195. CSIS is directly and/or vicariously liable for the Wrongful Acts committed by employees of the organization against the Employees, and CSIS Failures, and is thus liable to pay damages for the Employee Harms that have followed.

DAMAGES

196. The Employees have suffered at the hands of CSIS, and they are entitled to damages, including pecuniary and non-pecuniary general damages, special damages and aggravated, exemplary and punitive damages.

197. As a consequence of the breaches set out above, the Employees have sustained and will continue to sustain injuries as set out in the Employee Harms. In addition, the Employees have lost wages, including overtime opportunities, promotional opportunities and future income, and

the correlating pension income. They have also incurred medical, travel and other health care costs. The Employees seek recovery of all of these damages.

Grounds for Punitive, Aggravated and Exemplary Damages

198. CSIS knowingly failed the Employees. The Employees plead that CSIS had knowledge of the widespread discrimination, harassment, bullying and abuse of authority within the Service, and it failed and refused to act in a timely way, or at all, to acknowledge the misconduct, forbid or seek to limit or eradicate the misconduct, or take appropriate steps to relieve the burden on the Employees.

199. Despite this knowledge, CSIS continued to permit the wrongful conduct and took no steps, or in the alternative no reasonable steps, to protect the Employees from these abuses and harms. In the circumstances, the failure to act on that knowledge amounts to a wilful, wanton and reckless disregard for the well-being of the Employees, and renders punitive and aggravated damages both appropriate and necessary.

CONCLUSIONS

200. CSIS is a unique organization, entrusted with extraordinary and intrusive investigative powers for the purpose of investigating threats to the security of Canada. It operates under a veil of secrecy which has been used by senior managers to harass and intimidate the Employees with apparent impunity. Those managers have harmed the Employees, and CSIS has utterly failed them.

APPLICABLE LEGISLATION

201. The Plaintiffs plead and rely upon the following:

Federal Courts Act, R.S.C., 1985, c. F-7;


Federal Courts Rules, SOR/98-106;

Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, ss. 3, 21, 22, and 23;

Canadian Charter of Rights and Freedoms, ss. 2(a), 15 and 24;

Canadian Human Rights Act, R.S.C., 1985, c. H-6; and

202. The Employees propose that this action be tried at Toronto, Ontario.


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