

Court File No.

47856¹⁰

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SEAN BRUYEA

Plaintiff

- and -

THE ATTORNEY GENERAL OF CANADA,
ORLANDA DREBIT, JANE HICKS and KEN MILLER

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANT

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

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or 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 is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: **MAR 02 2010**

Issued by: _____



Registrar
Court House,
161 Elgin Street
Ottawa, Ontario

TO: John H. Sims, Q.C.
Deputy Attorney General of Canada
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AND TO: Orlanda Drebit

AND TO: Jane Hicks

AND TO: Ken Miller

CLAIM

1. The Plaintiff, Sean Bruyea, claims against the Defendant, the Attorney General of Canada ("Attorney General"), the following:

- (i) General damages and reputation damages in the amount of \$100,000 on the basis of infringement of privacy, breach of fiduciary duty and breach of sections 2(b) and 15(1) of the *Canadian Charter of Rights and Freedom* ("Charter"); ,
- (ii) costs of this action on a substantial indemnity basis, including G.S.T.;
- (iii) pre-judgment interest in accordance with the *Courts of Justice Act*, as amended; and
- (iv) such further and other relief as this Honourable Court may deem just and expedient.

2. The Plaintiff claims against the Defendants, Orlanda Drebit, Jane Hicks, and Ken Miller the following:

- (i) General damages and reputation damages in the amount of \$100,000 on the basis of misfeasance in public office, infringement of privacy, breach of fiduciary duty and of sections 2(b) and 15(1) of the *Canadian Charter of Rights and Freedom* ("Charter"); ,
- (ii) costs of this action on a substantial indemnity basis, including G.S.T.;

- (iii) pre-judgment interest in accordance with the *Courts of Justice Act*, as amended;
and
- (iv) such further and other relief as this Honourable Court may deem just and expedient.

THE PARTIES

3. The Plaintiff is a Veteran of the Gulf War and a retired Air Force Intelligence Captain. He is considered 100% disabled by the Department of Veterans Affairs (“Veterans’ Affairs”) as a result of injuries he sustained during his service in the Persian Gulf War in 1990-91. He is dependant on Veterans Affairs for his Veterans’ disability pension and medical treatment. He resides in Nepean, Ontario.

4. The Defendant, the Attorney General of Canada, is the representative of the Government of Canada and all department and agencies that constitute part of the Government of Canada. All actions of the Defendant that are the subject of the instant action were carried out by representatives or agents of the Department of Veteran Affairs.

5. At all material times, the Defendants Orlanda Drebit, Jane Hicks and Ken Miller were employees of the Department of Veterans’ Affairs.

6. The Defendant, Jane Hicks, was working in Ottawa as the Ottawa District Director of Services for Veterans Affairs. She was responsible for overseeing the delivery of Veteran Affairs services to the Plaintiff.

7. The Defendant, Ken Miller, was the Director of Public Consultation for the modernization of

veterans' programs at Veterans' Affairs. He was responsible for interacting with the public in packaging and presenting the new programs for veterans introduced in 2005. At all material times the Defendant Miller worked in Veterans Affairs Offices in Charlottetown, Prince Edward Island.

8. The Defendant, Orlanda Drebit, was the Director of Service Policy and National Benefits Administration. She was responsible for overseeing the delivery of medical and treatment services to Veterans. At all material times the Defendant Drebit worked in Veterans Affairs Offices in Charlottetown, Prince Edward Island.

OVERVIEW

9. The Plaintiff is a respected advocate for the rights of Veterans, widely known by the media, politicians and former members of the Canadian Forces.

10. The Plaintiff is himself a Veteran who is in receipt of a medical pension and services from the Department of Veterans Affairs for his service-related disabilities. To provide these services, the Plaintiff authorizes the disclosure of his personal medical information to the service delivery branch of the Department of Veteran Affairs.

11. In 2005-2006, the Plaintiff spoke publicly and communicated with numerous public officials to express his views opposing legislation which was being introduced to re-package the benefits and support programs provided to Veterans.

12. When the Plaintiff publically denounced the bill and called for the creation of a Veterans' Ombudsman, confidential and sensitive information from his medical file was unlawfully released to several employees of Veterans Affairs who were not involved in the delivery of services to him but who were employed in the implementation of government policy regarding Veterans. Those

individuals prepared a series of "briefing notes" about the Plaintiff which contained distorted information regarding his service-related disability and treatment history, and suggested that the Plaintiff's views were not credible because of his mental illness. These briefing notes were widely-circulated in whole or in part to individuals who were not involved in his care.

13. The Plaintiff claims that the Defendants acted unlawfully and in bad faith with the intent to cause him harm and infringe his privacy because of his mental illness. It is also claimed that these actions were taken in order to undermine and curtail the Plaintiff's ability to exercise his constitutional right to freedom of expression.

BACKGROUND ON ADVOCACY WORK

14. The Plaintiff is a Veteran who served with the Canadian Force for fourteen years, including a period of service in the Persian Gulf War. He is a retired Captain. He joined the Canadian Forces in 1982 and was released from the Force in 1996 for medical reasons.

15. As a result of his service, the Plaintiff suffers from numerous service-related disabilities including major depression, fibromyalgia, chronic fatigue syndrome and post traumatic stress disorder.

16. In November 1999, the Plaintiff applied for a Veterans disability pension. In April 2000, he was deemed to be eligible for the Veterans' disability pension, having been found to be 70% disabled.

17. In January 2003, his pension was increased when he was found to be 100% disabled as a result of his service related injuries.

18. The Plaintiff is dependant on Veterans Affairs for financial support, through his Veterans'

Pension, and medical treatment. Because of this, Veterans Affairs possess extensive medical and financial information regarding the Plaintiff.

19. The Plaintiff began to publically advocate for the rights of Veterans around 2001 when he denounced the government for failing to provide adequate benefits and support to modern-day Veterans.

20. In November 2002, an opinion letter written by the Plaintiff and other Veterans appeared on the third page of the *Ottawa Citizen*, a daily newspaper. It criticized the government's treatment of Veterans of the Gulf War.

21. From 2001 to 2005, more than 30 articles quoting or written by the Plaintiff were published in newspapers all over Canada including the *Globe and Mail*, the *National Post*, the *Ottawa Citizen*, the *Montreal Gazette*, the *Kingston Whig*, the *St-John's Telegraph*, the *Saint John Telegram*, the *Toronto Star*, the *Windsor Star*, the *Charlottetown Guardian*, the *Calgary Herald* and the *Edmonton Journal*. The plaintiff also appeared in four nationally televised news reports during this period.

22. On October 1, 2004, the Plaintiff and another Veteran wrote to the newly appointed Minister of Veterans Affairs, Albina Guarneri ("Minister Guarnieri"), to request a meeting with her to discuss the treatment of modern-day Veterans.

23. In a letter dated October 27, 2004, Minister Guarnieri's Chief of Staff wrote to the Plaintiff promising that a representative from Veterans Affairs would contact him to set up a meeting.

24. On November 4, 2005, the Plaintiff contacted the Defendant Miller to discuss the modernization of Veterans programs. The Plaintiff indicated to the Defendant Miller that he wished to be consulted if any major changes were to be made to the benefits and programs

provided to Veterans by Veterans Affairs.

25. On February 28, 2005, the Plaintiff met Minister Guarnieri at a reception at the Kuwaiti Embassy in Ottawa. The Minister asked the Plaintiff to contact her staff in order to arrange a meeting with her to discuss his concerns regarding the treatment of modern-day Veterans. A meeting was later scheduled in June 2005.

VETERANS' CHARTER

26. On April 6, 2005, it was leaked to the media that the government was planning to propose a new benefit plan for Veterans.

27. The proposed legislation was to be known as the Veterans' Charter. That day, the Plaintiff appeared on CTV News stating that he would support any changes that would help Veterans.

28. Later that day, the Plaintiff contacted Veterans Affairs to request more information about the new benefit plan that was being introduced.

29. Arrangements were made to have the Defendant Miller meet the Plaintiff and to brief him on the proposed legislation.

30. Some time prior to the meeting, the Defendant Miller obtained a four page document from the Service Delivery Branch of Veterans' Affairs which summarized the Plaintiff's history of care with Veterans' Affairs since 1997. It included highly sensitive information regarding the Plaintiff's service-disabilities, such as his bladder incontinence and his depression.

31. The Defendant Miller was not involved in the delivery of services to the Plaintiff. The Plaintiff did not consent to this disclosure or use of his personal information.

32. On April 7, 2005, the Defendant Miller met with the Plaintiff, his spouse and another Veteran to brief them about the Veterans' Charter.

33. Although the Defendant Hicks was not involved in any way in the development of policy for Veteran Affairs, she attended the entire meeting.

34. During the meeting, the Defendant Miller discussed the new programs that Veterans Affairs was planning on implementing. The Plaintiff indicated that he was pleased with many of the new programs discussed but did not specify whether he would support the Veterans' Charter in particular.

35. Following the meeting, the Defendant Miller informed the Deputy Minister of Veterans Affairs, Jack Stagg, in an email that he believed that the Plaintiff would provide "very positive comments" about the Veterans Charter.

36. In an email dated April 11, 2005, the Deputy Minister congratulated the Defendant Miller for his "good work" in having managed to obtain the Plaintiff's support for the Veterans' Charter.

37. The legislation was tabled on April 20, 2005.

38. After reviewing the proposed legislation in detail, the Plaintiff decided that he would not support the proposed legislation and sought to publicly express his views about it.

39. On May 10, 2005, the Plaintiff and other Veterans held a press conference during which they denounced the shortcomings of the proposed legislation. It aired nationally on CBC Television.

40. On May 11, 2005, the Plaintiff appeared as a witness before the Senate National Finance

Committee. In his testimony, the Plaintiff once again criticized the shortcomings of the Veterans' Charter.

VETERANS AFFAIRS OBJECTIVES

41. A Veterans Affairs Departmental Report dated July 2005 entitled "*Volume II of the Disability Pension Program Evaluation*" identified the accumulated liability for disability pensions for peacetime Veterans Affairs clients as an "alarming future liability scenario" which the report indicated amounted to \$7.9 billion at the end of 2004. The report recommended a "shift to greater use of lump sum payments" to address the liability.

42. The result was the passage of Bill C-45, the "Canadian Forces and Veterans Reestablishment and Compensation Act" otherwise known as the Veterans Charter. The Veterans Charter started second reading in the House of Commons on May 10, 2005 and received royal assent two days later on May 13, 2005 after only three hours of debate in both houses. Such rapid passage, especially in the context of a minority Parliament, is without precedent.

43. The Plaintiff was one of the only Canadians to oppose the changes represented in the legislation and its rapid passage.

REPEATED DISCLOSURE OF PLAINTIFF'S PERSONAL INFORMATION

(a) Disclosure following May 11, 2005 Press Conference

44. On May 13, 2005, the Plaintiff contacted the Defendant Hicks by telephone in order to clarify a misunderstanding that had developed concerning his medical travel reimbursement.

45. Later that day, the Defendant Hicks sent an email to the Defendant Miller providing him

with detailed information regarding the conversation she had had with the Plaintiff regarding his medical travel claims.

46. This information was sent to Defendant Miller although he was not involved in the delivery of services to the Plaintiff. The Defendant Hicks did not seek the Plaintiff's consent prior to releasing this information.

47. On May 16, 2005, the Defendant Miller sent an email to Defendant Hicks providing her with "some background" about the Plaintiff's advocacy concerning the Veterans Charter. Attached to his email was the transcript of his testimony before the Senate Committee. This information was sent to the Defendants Hicks and Drebit and four other employees of the Service Delivery and Benefit Approval sections of Veterans Affairs.

48. The information sent by Defendant Miller was irrelevant to the Plaintiff's medical needs.

(b) Disclosure in preparation for June 20, 2005 Meeting with Minister

49. On June 10, 2005, the Plaintiff testified before the Subcommittee on Veterans Affairs of the House of Commons Standing Committee on National Defence and Veterans Affairs expressing his opinion about the need for a Veterans' Ombudsman. In his testimony, he also criticized the Veterans Charter.

50. Following his appearance before the committee, a meeting was scheduled with the Minister of Veteran's Affairs to discuss the Plaintiff's concerns about the Veteran's Charter and the need for a Veteran's ombudsman.

51. On June 17, 2005, Jack Stagg, then Deputy Minister of Veterans Affairs, approved a briefing note ("June 2005 Briefing Note") to be given to the Minister in preparation for a meeting that was

to be held with the Plaintiff on June 20, 2005. The June 2005 Briefing Note was prepared primarily by the Defendants Hicks and Drebit. Defendant Hicks was the Plaintiff's first point of contact for his services as a Veteran with service-related disabilities.

52. The June 2005 Briefing Note's only recommendation was that the Plaintiff be sent to Ste Anne's hospital to receive a psychological assessment to evaluate his "mental health needs" given that he was "clearly unwell". It continued by providing a detailed summary of his work as an "advocate" for Veterans' rights and highlighted that the Plaintiff had denounced the Veterans' Charter in the media and lobbied for an Ombudsman before parliamentary committees. Details regarding his financial benefits, mental health and the medical treatment he received were also included. It was also noted that "careful consideration" was to be given to alternative approaches of care so as not to "reinforce" the Plaintiff's "previous negative behaviors".

53. The June 2005 Briefing Note was circulated to at least 40 individuals, many of whom were not involved in the delivery of treatment services to the Plaintiff.

54. The Plaintiff was not made aware of and did not consent to the release of this information these individuals.

55. On June 20, 2005, the Plaintiff met with the Minister. Prior to the meeting, the Minister was provided with a copy of the June 2005 Briefing Note prepared by the Defendants Hicks and Drebit and approved by Jack Stagg regarding the Plaintiff.

56. The Plaintiff was not made aware of and did not consent to the release of this information to the Minister.

57. Although the Plaintiff made it clear to the Minister that he wished to discuss Veteran's issues, such as the Veterans Charter and the creation of an Ombudsman's office for Veterans, the

Minister began the meeting by attempting to discuss the Plaintiff's personal situation. The Plaintiff made it clear that he was not meeting with her in order to discuss his personal situation and steered the conversation back to issues of concern for modern day Veterans.

(c) Disclosure following June 20, 2005 Meeting with Minister

58. Following the Plaintiff's meeting with the Minister, the Defendants Hicks and Drebit prepared another briefing note ("July 2005 Briefing Note") regarding the Plaintiff to give to the Minister.

59. The July 2005 Briefing Note reiterated that the Plaintiff needed a psychological assessment at Ste. Anne's hospital to determine his "mental and physical health needs". It also stated that the Plaintiff was "clearly unwell" and provided information regarding his advocacy work and history of medical treatment.

60. The July 2005 Briefing Note was circulated to approximately 38 individuals, many of whom were not involved in the delivery of treatment services to the Plaintiff.

61. The Plaintiff was not made aware of and did not consent to the release of this information these individuals.

(d) Disclosure following November 10, 2005 Press Conference

62. On November 10, 2005, the Plaintiff and other Veterans held a press conference to release an 88 page report they had prepared on Veterans Affairs which they called the first Ombudsman report on Veterans Affairs. The report called for the creation of a Veteran's Ombudsman to

identify systemic problems affecting Veterans' access to benefits and services.

63. In December 2005 and January 2006, the Defendants Drebit, Hicks and Miller prepared various drafts of a briefing note for Senior Veterans Affairs Managers, the Minister and her staff regarding the Plaintiff.

64. The drafts of the briefing notes included information about the Plaintiff's mental health, his advocacy work as well as the total monetary value of the benefits and treatment he received from Veterans' Affairs. All drafts stated that the Plaintiff was in need of a "comprehensive clinical assessment".

65. Drafts of these briefing notes were released to over 30 individuals involved in service delivery and policy development for Veterans' Affairs.

(e) Disclosure in preparation for March 21, 2006 Press Conference

66. In early March 2006, Veterans Affairs received information that the Plaintiff was planning on calling a press conference on March 21, 2006 to criticize the New Veterans Charter and the treatment of modern-day Veterans.

67. In response to this news, the Defendant Miller asked other Veterans Affairs staff who had access to the Plaintiff's medical records, including the Defendant Drebit, and Doug Clorey, the Chief of Mental Health for Veterans Affairs, to update the briefing notes that had been prepared regarding the Plaintiff in June and in December 2005. The Defendant Miller also asked Ms. Lina Caresse, a psychologist from Ste. Anne's Hospital, for information about the Plaintiff.

68. On March 20, 2006, a twelve-page briefing note regarding the Plaintiff was finalized by the Defendant Miller.

69. Although the briefing note was drafted in preparation for the Plaintiff's press conference regarding the new programs for Veterans, it highlighted that the Plaintiff had a mental disability and that he was in need of a psychiatric assessment.

70. The briefing note was divided in several sections. One section, entitled "As lobbyist", provided two pages of information regarding the Plaintiff's history of involvement in advocacy for Veterans' rights as well as a summary of his criticism of the proposed legislation. Another section, entitled "Client interaction", provided a detailed account of the Plaintiff's medical conditions, history of treatment and the cost of this treatment and his benefits to Veterans' Affairs. The section included confidential notes taken by the Plaintiff's psychiatrist. In particular, it stated that the Plaintiff's "mental condition is deteriorating and he is now actively experiencing suicidal ideation".

71. In many drafts of the briefing note, it was acknowledged that personal information regarding the Plaintiff could not be released given that such information was protected by the *Privacy Act*.

72. This briefing note was circulated to numerous employees of Veterans Affairs, many of whom were involved in the implementation of policy and had no involvement in the delivery of services to Veterans. It was also circulated to elected officials. The Plaintiff was not made aware of and did not consent to the release of this personal information.

73. On March 21, 2006, the Plaintiff held a press conference asking government not to implement the new benefits plan until it was reviewed thoroughly by a parliamentary committee.

74. By the time of the press conference, the briefing note regarding the Plaintiff had been sent to over 50 people including Veterans Affairs staff who were not involved in service delivery. It was

also circulated in whole or in part with elected officials, such as Betty Hilton, a Member of Parliament and Parliamentary Secretary.

75. A few days after this press conference, the Department of Veterans Affairs' senior manager with the overall responsibility for creating the Veterans Charter, Darragh Morgan, sent an email to others within the Department noting that it was "time to take the gloves off" with respect to the Plaintiff and his expression of his opinions on the new legislation.

(f) Disclosure in preparation for June 13, 2006 Appearance before the House of Commons Standing Committee on Veterans' Affairs

76. In early June 2006, "resource materials" were prepared by the Defendant Miller and other Veterans Affairs officials in anticipation for the Plaintiff's appearance as a witness before the House of Commons Standing Committee on Veterans' Affairs ("the Committee").

77. On June 9, 2006, the Defendant Miller indicated in an email to other Veterans Affairs staff that he wanted the resources materials to include a "significant mental health aspect" as well as personal material relating to the Plaintiff.

78. These resource materials included five pages of medical and personal information regarding the Plaintiff and were taken from the March 2006 Briefing Note.

79. On June 13, 2006, the Plaintiff appeared before the Committee. The Plaintiff did not discuss nor was he invited to discuss "mental health issues" but instead testified on the need for a Veterans Ombudsman.

CONCERNS ABOUT BREACHES OF PRIVACY

80. The Defendants knew that they were breaching the Plaintiff's privacy rights to releasing his personal information to individuals who were not involved in his care. In an email dated March 20, 2006, Lina Caresse, Manager of the Ste-Anne Clinical Care Centre of Expertise, and Doug Clorey, the Chief of Mental Health for Veterans Affairs, both expressed concerns that personal information regarding the Plaintiff is "private info" and cannot be released and circulated publicly without his consent and can only be released to "administrators" within the Department "as concerns treatment services & benefits requested". This email was sent to several Veterans Affairs staff who were involved in the drafting of the briefing note, including the Defendant Miller.

81. In an email dated June 24, 2006 addressed to the Defendants Drebit, Hicks and other Veterans Affairs officials, Lina Carrese again reiterated that she did not have the authorization to speak about the Plaintiff.

82. On June 24, 2006, Doug Clorey replied to this email by saying that he "cannot turn back the clock on briefing notes that have already went to the Minister" with regards to the circulation of the March 2006 Briefing Notes. Despite this, the defendants continued to circulate them.

DISCOVERY OF DISCLOSURE OF PERSONAL INFORMATION

83. On January 23, 2008, February 6, 2008, February 18, 2008, and April 30, 2008, the Plaintiff received the first series of documents of what has grown to more than 13,000 pages of his Privacy Act related documents from Veterans Affairs.

BREACH OF SECTION 2(B) OF THE CHARTER

84. The Defendants breached the Plaintiff's constitutional right to freedom of expression as

guaranteed by section 2(b) of the Charter. All of the actions were taken in bad faith and with the knowledge they were harming the Plaintiff and his reputation and violating his rights. The following actions were taken in order to undermine the Plaintiff's ability to meaningfully express his opinions and views regarding the rights of Veterans:

- a. The Defendant Miller obtained a detailed summary of the Plaintiff's history of care prior to May 2005 although he was in no way involved in his care;
- b. The Defendants Drebit, Hicks and Miller disclosed personal information regarding the Plaintiff on May 13, 2005, to individuals who were not involved in the delivery of Veterans Affairs services after the Plaintiff publically denounced the proposed legislation in a press conference and before a parliamentary committee on May 10 and May 11, 2005;
- c. The Defendants Drebit, Hicks and Miller released personal information regarding the Plaintiff's medical related-disabilities and treatment in the June 2005 Briefing Notes, to individuals who were not involved in the delivery of Veterans Affairs service before the Plaintiff's June 20, 2005 meeting with the Minister;
- d. The Defendants Drebit, Hicks and Miller released personal information regarding the Plaintiff's medical related-disabilities and treatment in the July 2005 Briefing Note, to individuals who were not involved in the delivery of Veterans Affairs services;
- e. The Defendants Drebit, Hicks and Miller released personal information regarding the Plaintiff's medical related-disabilities and treatment in several draft briefing notes prepared in November and December 2005 and January 2006, to individuals who were not involved in the delivery of Veterans Affairs services after the Plaintiff

publicly denounced the proposed legislation in a press conference on November 10, 2005;

- f. The Defendants Drebit, Hicks and Miller released personal information regarding the Plaintiff's medical related-disabilities and treatment in the March 2006 Briefing Note prepared in early March 2006, to over 50 individuals, many of whom were not involved in the delivery of Veterans Affairs services, in preparation for a March 21, 2006 press conference in which the Plaintiff would publically denounced the proposed legislation and for a meeting on March 28 2006 between the Plaintiff and the newly appointed Minister of Veterans Affairs Gregory Thompson; and
- g. The Defendant Miller released personal information regarding the Plaintiff's medical related-disabilities and treatment in the June 2006 resource materials, to various individuals, many of whom were not involved in the delivery of Veterans Affairs services, in preparation for a June 13, 2006 appearance before the House of Commons Committee Standing Committee on Veterans Affairs.
- h. The Defendants disclosed the Plaintiff's personal information in order to discredit the Plaintiff's efforts to oppose the Veterans Charter, legislation designed to save the Canadian Government billions of dollars.

BREACH OF SECTION 15(1) OF THE CHARTER

85. The Defendants breached the Plaintiff's constitutional right to equality guaranteed by section 15(1) of the Charter. All of the actions were taken in bad faith and with the knowledge they were harming the Plaintiff and his reputation and violating his constitutional, statutory and common law rights. These actions include:

- a. Depriving the Plaintiff of equal benefit under the *Privacy Act*, R.S.C. 1985, c. P-21 by releasing personal information about him without his consent because of his disability;
- b. Perpetuating the stereotype that the privacy rights of people with disabilities are less important and worthy of protection than the privacy rights of others;
- c. Aggravating the Plaintiff's disadvantage as a person with mental disabilities by taking actions to curtail his constitutional right to freedom of expression based on stereotypes that the opinions of people with mental disabilities are less insightful and worthy of attention than those of others.

BREACH OF FIDUCIARY DUTY

86. The Defendants owed a fiduciary duty to the Plaintiff as a Canadian Veteran with service-related disabilities. This fiduciary duty entailed, at the very least, the duty to protect the Plaintiff's personal information and to disclose it only when necessary or with his consent. This fiduciary duty is based on the facts set out in this claim, including:

- a. The Defendants had a scope of discretion with regards to the protection of the Plaintiff's personal information;
- b. The manner in which the Defendants exercised this discretion directly impacted the Plaintiff's privacy rights and his rights to meaningfully exercise his freedom of expression;
- c. The Defendants had statutory and common law obligations to protect the Plaintiff's private information;
- d. The Plaintiff was in a position of vulnerability at the hands of the Defendant because he was dependant on it for his financial security and medical care; and
- e. The Plaintiff was also in a position of vulnerability at the hands of the Defendant because he relied on the Defendant to protect the confidentiality of his personal

information regarding his finances, medical condition and history of treatment.

MISFEASANCE IN PUBLIC OFFICE

87. The Plaintiff claims that the Defendants Ms. Drebit, Ms. Hicks and Mr. Miller are personally liable for misfeasance in public office on the basis of the facts set out in this claim, including:

- a. The Defendants are public servants with a duty to act in accordance with the laws of Canada;
- b. The Defendants were aware that it was unlawful to use personal information regarding the Plaintiff for purposes other than those for which it was collected in accordance with the section 7 of the *Privacy Act*, R.S.C., 1985, c. P-21;
- c. The Defendants deliberately and flagrantly violated the Plaintiff's privacy rights by using his personal information for purposes other than those for which it was collected and in order to curtail his freedom of expression; and
- d. The Defendants were aware that their unlawful conduct would harm the Plaintiff.

BREACH OF PRIVACY

88. The Plaintiff claims that the Defendants are liable for infringement of privacy on the basis of the facts set out in this claim, including:

- a. A reasonable person would consider the medical and financial information released and circulated regarding the Plaintiff to be private;
- b. The Plaintiff did not, at any time, consent to the disclosure of this information to individuals who were not involved in the delivery of services to him;
- c. There was no public interest in releasing the information regarding the Plaintiff that would outweigh his interest of keeping his information private.

DAMAGES

89. As a result of the breaches of legal and constitutional duties referred to above, the Plaintiff has suffered general and reputation damages and claims against the Defendant, the Attorney General, \$100,000.

90. As a result of the breaches of legal duties referred to above, the Plaintiff has suffered general and reputation damages and claims against the Defendants, Ms. Drebit, Ms. Hicks and Mr. Miller, \$100,000. The Defendants, Drebit, Hicks and Miller, are individually and severally responsible for these general and reputation damages.

91. The Defendant, the Attorney General of Canada, is vicariously liable for the conduct of the Defendants Drebit, Hicks and Miller as at all material times, they were acting as agents or employees of the Government of Canada.

92. The Plaintiff proposes that this action be tried at the City of Ottawa.

Dated this ~~1st~~ day of March, 2010.

MAR 02 2010

CHAMP & ASSOCIATES

Barristers & Solicitors

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Per: Paul Champ, LSUC #45305K

Solicitors for the Plaintiff

Court File No.: 10-47856

SEAN BRUYEA

-and- **ATTORNEY GENERAL OF CANADA AND AL.**

Plaintiff

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Ottawa

STATEMENT OF CLAIM

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