

Federal Solitary Confinement Class Action: Updates

Koskie Minsky LLP and McCarthy Tétrault LLP have commenced a class action against the Attorney General of Canada alleging systemic infliction of prolonged administrative solitary confinement upon prisoners incarcerated in federal correctional institutions. In prolonged administrative solitary confinement, prisoners are placed in small cells and are denied any meaningful human contact for at least 22 hours per day, for a period of at least 15 consecutive days. This treatment is imposed in instances where the prisoner has done nothing wrong and is not being punished.

The claim alleges that by virtue of this practice in federal correctional institutions, Canada has been negligent, has breached its fiduciary duties, has breached various rights under the *Canadian Charter of Rights and Freedoms*, has subjected class members to false imprisonment, intentional infliction of mental suffering, assault, and battery, and has been unjustly enriched.

The class includes all persons, except “Excluded Persons”, who were involuntarily subjected to a period of prolonged administrative solitary confinement at a federal correctional institution between November 1, 1992 and the present, and were alive as of March 3, 2015.

For inquiries or if you think you are a class member:

Toll-free hotline: 1-866-777-6311;

March 9, 2020

In a unanimous decision, the Ontario Court of Appeal agreed that Canada’s use of prolonged solitary confinement had breached Class members’ Charter rights and freedoms. The Court upheld the base level award of \$20 million in Charter damages.

June 24, 2020

Canada has not appealed the Ontario Court of Appeal’s decision granting summary judgment. The parties are now working towards implementing that decision.

A motion date to re-determine aggregate damages in the Brazeau matter was determined May 29, 2020. The parties will now file materials respecting the distribution of damages in both matters. The Court will determine the distribution protocol as soon as practicable.

A motion date to determine the individual issues protocol (for additional individual damages) is scheduled to proceed on October 6-8, 2020.