

Form 4.02A

2020

Tru No. 498513

Supreme Court of Nova Scotia

Between:

Tyler Edison Blair and Andrew Frederick O'Brien

Representative Plaintiffs

and

**Attorney General of Canada in its representative capacity for
the Royal Canadian Mounted Police and The Attorney General
of Nova Scotia representing Her Majesty the Queen in right of
the Province of Nova Scotia**

Defendants

Notice of Action: Further Amended July 30, 2021
Proceeding pursuant to the *Class Proceeding Act*, SNS 2007, c 28

To: **The Attorney General of Canada**

To: **The Attorney General of Nova Scotia**



Action has been started against you

The Representative Plaintiffs take action against you.

The Representative Plaintiffs started the Action by filing this Notice with the Court on the date certified by the Prothonotary.

The Representative Plaintiffs claim the relief described in the attached Statement of Claim. The claim is based on the grounds stated in the Statement of Claim.

Deadline for defending the action

Pursuant to subsection 4(6) of the *Class Proceedings Act*, a defence is not due until forty-five (45) days after a Certification Order is issued in respect of the proceeding.

Judgment against you if you do not defend

The Court may grant an order for the relief claimed without further notice, unless you file the Notice of Defence before the deadline.

You may demand notice of steps in the action

If you do not have a defence to the claim or you do not choose to defend it you may, if you wish to have further notice, file a Demand for Notice.

If you file a Demand for Notice, the Plaintiff must notify you before obtaining an order for the relief claimed and, unless the Court orders otherwise, you will be entitled to notice of each other step in the Action.

Rule 57 - Action for Damages under \$150,000

Civil Procedure Rule 57 limits pretrial and trial procedures in a defended Action so it will be more economical. The Rule applies if the Representative Plaintiff states the Action is within the Rule. Otherwise, the Rule does not apply, except as a possible basis for costs against the Representative Plaintiff.

This Action is not within Rule 57.

Filing and delivering documents

Any documents you file with the Court must be filed at the office of the Prothonotary:

1 Church Street, Truro, Nova Scotia B2N 3Z5 (Tel: 902.893.3953)

When you file a document you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a Judge orders it is not required.

Contact information

The Representative Plaintiffs designates the following address:

Sandra L. McCulloch
PATTERSON LAW
10 Church Street
P.O. Box 1068, Truro, NS B2N 5B9

Documents delivered to this address are considered received by the Representative Plaintiff on delivery. Further contact information is available from the Prothonotary.

Proposed place of trial

The Representative Plaintiff proposes that, if you defend this Action, the trial will be held in Truro, Nova Scotia.

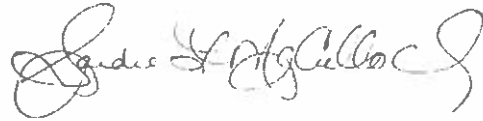
Signature

Signed the 16th day of June 2020.

Amended the 31st day of August, 2020.

Further amended the 30th day of December, 2020.

Further amended the 30th day of July, 2021.



Sandra L. McCulloch
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10 Church Street
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Counsel for the Representative Plaintiffs,
Tyler Edison Blair and Andrew Frederick
O'Brien

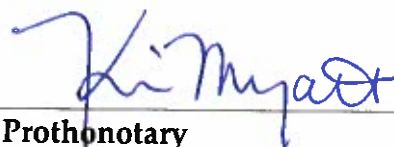
Prothonotary's certificate

I certify that this Notice of Action, including the attached Statement of Claim, was filed with the Court on June 16, 2020.

I certify that this Amended Notice of Action, including the attached Statement of Claim, was filed with the Court on September 1, 2020.

I certify that this Further Amended Notice of Action, including the attached Statement of Claim, was filed with the Court on December 30, 2020.

I certify that this second Further Amended Notice of Action, including the attached Statement of Claim, was filed with the Court on July 30, 2021.



Prothonotary

KIM MYATT
PROTHONOTARY

Further Amended Statement of Claim

The Parties

1. The Proposed Representative Plaintiff, Tyler Edison Blair is a resident of Onslow Mountain, Colchester County, Nova Scotia (hereinafter "Blair").
2. The Proposed Representative Plaintiff, Andrew Frederick O'Brien is a resident of Masstown, Colchester County, Nova Scotia (hereinafter "O'Brien").
3. The Defendant, the Attorney General of Canada, is the representative of the Federal Crown pursuant to the *Crown Liability and Proceedings Act*, RSC 1985, c C-50 (hereinafter "AGC").
4. The Defendant, The Attorney General of Nova Scotia, is the representative of the Provincial Crown pursuant to the *Proceedings Against the Crown Act*, RSNS 1989, c 360 (hereinafter "AGNS").
5. The Royal Canadian Mounted Police (hereinafter "the RCMP"), is the federal and national police force of Canada. The RCMP are constituted, maintained and overseen by the AGC pursuant to the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10.
6. The RCMP is the Provincial Police force for the Province of Nova Scotia by contractual arrangements between the governments of Canada and Nova Scotia pursuant to the *Police Act*, SNS 2004, c 31. The Provincial Police force provides policing services for all areas not serviced by other means of law enforcement.

The Class Action

7. Blair and O'Brien bring the present Action on their own behalves and on behalf of the members of the two subclasses as a Class Proceeding pursuant to the *Class Proceedings Act*, SNS 2007, c 28.
8. Blair and O'Brien plead that the Class Proceeding is comprised of two subclasses, defined as follows:
 - a. Subclass A: Excluding Lisa Banfield and excluding RCMP personnel, all those estates and persons having claims arising from the actions of Gabriel Wortman committed in the community of Portapique on April 18 and/or 19, 2020, or as a result of the actions/inaction of the RCMP in its response to the actions of Gabriel Wortman, including those estates which are entitled to advance claims pursuant to the *Survival of Actions Act*, RSNS 1989, c 452,

those persons who are entitled to advance claims pursuant to the *Fatal Injuries Act*, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said *Act*, of those persons killed by Wortman within the community of Portapique, those persons who suffered personal injuries, and those persons who suffered damage to property;

- b. Subclass B: Excluding Lisa Banfield and excluding RCMP personnel, all those estates and persons having claims arising from the actions of Gabriel Wortman committed outside of the community of Portapique on April 18 and/or 19, 2020, or as a result of the actions/inaction of the RCMP in its response to the actions of Gabriel Wortman, including all those estates which are entitled to advance claims pursuant to the *Survival of Actions Act*, RSNS 1989, c 452 and all of those persons who are entitled to advance claims pursuant to the *Fatal Injuries Act*, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said *Act*, of those persons killed by Wortman outside of the community of Portapique, those persons who suffered personal injuries, and those persons who suffered damage to property.
9. Blair is the proposed Representative Plaintiff for Subclass A.
 10. O'Brien is the proposed Representative Plaintiff for Subclass B.
 11. Blair and O'Brien plead that the issues common to all of the members of the two subclasses are:
 - a) The liability of the AGC to the Class Members;
 - b) The liability of the AGNS to the Class Members;
 - c) The vicarious liability of the AGNS for the actions of the RCMP;
 - d) The joint and several liability of the AGC and the AGNS; and,
 - e) Punitive Damages;

all of which are as described in greater detail herein.

Background

12. Blair and O'Brien plead that during the evening hours of Saturday, April 18, 2020, Wortman began a spree of committing crimes ("the Spree") that included shooting people and pets with various firearms and burning property including cars and residential structures.

13. Blair and O'Brien plead that the Spree continued until approximately 11:26 a.m. on April 19, 2020.
14. Blair and O'Brien plead that during the Spree, Wortman killed 22 people; caused personal injuries to at least six people; burned at least four residential structures; burned or damaged at least three motor vehicles; and, killed or injured at least five pets.
15. Blair and O'Brien plead that Spree began in Portapique, Colchester County, Nova Scotia.
16. Blair and O'Brien plead that Wortman's first victim was Lisa Banfield, a woman with whom he then or formerly had an intimate relationship. Some time prior to 10:00 p.m. on April 18, 2020, Wortman assaulted her and she escaped into the forest and hid there until approximately 6:30 a.m. on April 19, 2020.
17. Blair and O'Brien plead that by approximately 10:00 p.m. on April 18, 2020, the RCMP had begun receiving messages from 911 advising of shootings in the Portapique area. The RCMP arrived in Portapique at approximately 10:20 p.m. to find buildings burning.
18. Blair and O'Brien plead that upon their arrival in Portapique, the RCMP were informed by an unnamed victim that that victim had been shot by a man in what appeared to be a police car, like those of the RCMP members who arrived on scene, and that the victim believed the shooter may have been "Gabe" who owned property in the area.
19. Blair and O'Brien plead that at approximately 11:32 p.m. on April 18, 2020, the RCMP issued a notice via social media platform Twitter, stating that it was responding to a firearms complaint in the Portapique area and advising the public to "stay inside their homes with doors locked at this time."
20. Blair and O'Brien plead that Wortman left the Portapique area at some point during the overnight of April 18-19, 2020, hiding overnight in or around Debert, Colchester County, Nova Scotia.
21. Blair and O'Brien plead that the RCMP failed to contain Wortman within the community of Portapique, and that the RCMP knew or ought to have known that Wortman had fled from Portapique, or that the RCMP ought to have conducted its operations upon the reasonable possibility that Wortman had fled from Portapique.
22. Blair and O'Brien plead that the RCMP issued a "Be On the Look Out" for Wortman to other RCMP members at or around 1:07 a.m. on April 19, 2020.

23. Blair and O'Brien plead that at approximately 6:30 a.m. on April 19, 2020, Lisa Banfield called 911 and reported to the RCMP that Wortman had an authentic RCMP uniform and a replica RCMP police cruiser and multiple firearms.
24. Blair and O'Brien plead that prior to Lisa Banfield informing the RCMP that Wortman was impersonating an RCMP officer (at approximately 6:30 a.m. on April 19, 2020, approximately eight hours after receiving similar information from the above-mentioned unnamed victim), Wortman killed 13 people; physically and/or psychologically injured at least five more; burned at least three residential buildings and damaged at least three motor vehicles.
25. Blair and O'Brien plead that at approximately 8:02 a.m. on April 19, 2020, the RCMP issued a further notice on Twitter stating that there is an "active shooter situation" in Portapique where it remained on scene, and asked residents "in the area" to "stay inside your homes & lock your doors." Shortly thereafter, at approximately 8:54 a.m., a further notice on Twitter was issued by the RCMP, stating Wortman's identity and describing him as "a white man, bald, 6'2-6'3 with green eyes" and "armed & dangerous."
26. Blair and O'Brien plead that, in fact, Wortman had by this time left Debert and traveled to Wentworth, Colchester County, Nova Scotia, arriving at or around 6:30 a.m. and remaining there until approximately 9:23 a.m., during which time he killed three people and burned at least one residential building containing two dogs.
27. Blair and O'Brien plead that, several hours later, Wortman traveled back in the direction of Debert (and eventually on to Truro, Colchester County, Nova Scotia), separately killing three more people en route between approximately 9:23 a.m. and 10:08 a.m.
28. Blair and O'Brien plead that at or around 9:48 a.m., Wortman also approached another home in Glenholme, Colchester County, Nova Scotia where he attempted unsuccessfully to gain access. The residents of that home contacted the RCMP at the Bible Hill Detachment, who has already contacted 911 10-15 minutes prior to inform authorities of their knowledge of Wortman and his possession of replica police cars, to advise that they knew that it was Wortman who was at their home and that he was driving an RCMP cruiser. The RCMP did not respond to the call, appearing to disagree with the information provided by the Glenholme residents, the residents receiving a call shortly thereafter that Wortman was en route to Lower Onslow, Colchester County, Nova Scotia and to remain their home. At or around 10:04 a.m., the RCMP issued a further notice on Twitter advising the public to "avoid HWY 4 near Hidden Hilltop campground in #Glenholme. Gabriel Wortman is in the area."
29. Blair and O'Brien plead that at approximately 10:17 a.m., the RCMP issued a further notice on Twitter stating that Wortman "may be driving what appears to be an

- RCMP vehicle & may be wearing an RCMP uniform.” A few minutes later, at or around 10:21 a.m., the RCMP issued a further notice on Twitter stating that Wortman was “currently in the #CentralOnslow #Debert area in a vehicle that may resemble what appears to be an RCMP vehicle & may be wearing what appears to be an RCMP uniform. Please stay inside and avoid the area.”
30. Blair and O’Brien plead that Wortman next traveled to Shubenacadie, Hants County, Nova Scotia in which community he injured Constable Chad Morrison and killed three more people, including Constable Heidi Stevenson, burned two motor vehicles, stole two motor vehicles and shot and injured a dog between approximately 10:49 a.m. and 11:06 a.m.
 31. Blair and O’Brien plead that at or around 11:04 a.m., the RCMP issued a further notice via Twitter stating that Wortman was “last seen travelling southbound on Hwy #102 from #Brookfield area in what appears to be RCMP vehicle & may be wearing RCMP uniform.” At or around 11:06 a.m., the RCMP issued a further notice via Twitter stating that Wortman was “now believed to be driving small silver Chevrolet SUV. Travelling southbound on Hwy #102 from #Brookfield area.” Shortly thereafter, at or about 11:24 a.m., the RCMP issued a further notice via Twitter confirming that Wortman was driving a “silver Chevy Tracker” and that he was “Last seen #Milford.”
 32. Blair and O’Brien plead that Wortman next traveled to Enfield, on the border of Hants County and Halifax County, Nova Scotia where Wortman was shot and killed by the RCMP at or around 11:26 a.m., at which time he was found to be driving a Mazda3.
 33. Blair and O’Brien plead that Wortman used the RCMP uniform and the replica RCMP cruiser during the majority of the Spree, except to kill the final person in Shubenacadie.
 34. Blair and O’Brien plead that at no time did the RCMP, or anybody else on its behalf or independently, issue an alert via Alert Ready, an emergency alert system available to Nova Scotia to distribute public safety messages Province-wide.
 35. Blair and O’Brien plead that, even with Wortman’s death, the RCMP’s response to Wortman’s actions continued and a number of aspects of this response, as well as the RCMP’s subsequent investigation into Wortman’s actions, were carried out in a high-handed, self-serving and disrespectful manner, including but not limited to the following examples:
 - a) It deliberately misled O’Brien by telling him that Heather O’Brien was shot and killed from “across the road;”

- b) It deliberately misled the Class Members and the public during its press conference on June 4, 2020 in that it confirmed that nobody was pulled over in their cars by Wortman using the replica RCMP cruiser;
 - c) It misled various of the Class Members regarding the requirements to keep the mobile phones of their deceased family members;
 - d) It carelessly misled at least one of the Class Members about a possible relationship their deceased family member might have had with Wortman prior to their death;
 - e) It released the automobile of a deceased family member to a Class Member after the investigation with gun casings and body parts still in the automobile. The Class Member was required to clean the automobiles themselves;
 - f) It refused to provide information to the Class Members regarding their family members' deaths while failing to secure that information from release to other persons or organizations until such time as Class Members were properly informed;
 - g) It allowed photographs and/or videos of the deceased to be made public on social media before the Class Members were informed of their family members' deaths; and
 - h) It allowed a deceased victim's body to remain in a vehicle while said vehicle was towed from a crime scene to be collected and analysed as evidence, rather than ensuring that the body was first removed and cared for in the appropriate manner before the vehicle was seized; and,
 - i) It failed to collect evidence from multiple crime scenes, whether in a timely manner or at all.
36. Blair and O'Brien plead that, subsequent to the Spree, it became publically known that the RCMP knew or ought to have known that Wortman had a history of violent behaviour, including but not limited to a prior criminal conviction related to an assault Wortman committed against a minor, a report of a threat made by Wortman related to killing a police officer, and one or more reports of threats of violence committed against his then-common law partner, and that Wortman had possession of illegal weapons and ammunition.

The Proposed Representative Plaintiffs

37. Blair is the son of the deceased Greg Blair and the stepson of the deceased Jamie Blair. Wortman killed Greg Blair and Jamie Blair in their home in Portapique and

then burned the house on April 18, 2020. Blair's two younger brothers were in the home, but were not killed by Wortman.

38. O'Brien is the widower of the deceased Heather O'Brien. At or around 10:08 a.m. on April 19, 2020, Wortman impersonated an RCMP officer to stop her on the road near her home in Masstown, Colchester County, Nova Scotia and shot her to death in her car.
39. Blair and O'Brien will be seeking and presume that they will be granted the status of Personal Representative of the Estates of Greg Blair and Heather O'Brien, respectively.
40. Blair and O'Brien are willing to represent all of the members of all subclasses should this action be certified, to provide instructions to legal counsel, to attend discovery examinations, attend and testify at motions and trials of this Action.

Causes of Action and Liability

41. Blair and O'Brien repeat the forgoing and plead that the Class Members and those killed and injured and those who suffered property damage by Wortman were vulnerable members of society who relied exclusively on the AGC (the RCMP) and the AGNS for police services and whose basic safety and security, both personally and financially, were compromised and/or lost by the AGC (the RCMP) and the AGNS' failure to fulfill the duties owed to them as vulnerable members of society. Blair and O'Brien further plead that the AGC (the RCMP) and the AGNS owed to the Class Members a fiduciary duty to provide for their safety and security with the highest level of honesty, good faith and in the best interests of the Class Members and those killed and injured and those who suffered property damage by Wortman and that the AGC (the RMCP) and the AGNS failed to fulfill that fiduciary duty at all times material hereto, including but not limited to as alleged herein.
42. Blair and O'Brien repeat the forgoing and plead that the AGC (the RCMP) and the AGNS owed a duty of care to the Class Members and those killed and injured and those who suffered property damage by Wortman and that the AGC (the RCMP) and the AGNS breached the standard of care expected of them.
43. Blair and O'Brien repeat the forgoing and plead that the AGC (the RCMP) and the AGNS breached their duties owed to the Class Members and those killed and injured and those who suffered property damage by Wortman as follows:
 - a) The RCMP failed to investigate and/or take action in relation to reports that it received prior to the Spree that Wortman had in his possession illegal weapons;

- b) The RCMP failed to investigate and/or take action in relation to reports that it received prior to the Spree that Wortman was physically abusive to women and that he in fact physically abused women;
- c) The RCMP failed to investigate and/or take action in relation to reports and notices that it received prior to the Spree that Wortman stated that he wished to harm police officers;
- d) The RCMP sent too few members to Portapique to adequately respond to the crimes being committed there by Wortman and/or, of those members sent to Portapique, the RCMP failed to direct or permit said members to take appropriate action to respond to the threat present by Wortman, whether to prevent him from committing further crimes or to apprehend him or otherwise, while he remained in Portapique;
- e) The RCMP failed to employ an Emergency Response Team when it ought to have done so during the Spree, or when the RCMP did employ an Emergency Response Team during the Spree, it failed to do so in a timely or appropriate manner and failed to instruct said Emergency Response Team to mobilize in a manner that was likely to have located and contained Wortman;
- f) The RCMP sent alerts via Twitter that were inadequate because: 1) the population affected by the Spree was older in age and less likely to be users of Twitter, and in any event the RCMP had no knowledge as to which, if any, citizens of the Nova Scotia were users of Twitter and/or would be able to receive an alert via Twitter in a timely matter or at all on April 18 and/or 19, 2020; 2) the internet coverage in a large portion of the area affected by the Spree was inadequate to provide the Twitter alerts to the entire population affected by the Spree; and 3) the information contained in the Twitter alerts were either inaccurate or insufficient to allow the population affected by the Spree to properly protect itself;
- g) The RCMP failed to use the Alert Ready system to send an Emergency Alert to the public in Nova Scotia to warn the public, and that such warning ought to have included the nature of Wortman's alleged crimes and that he was using an RCMP uniform and replica RCMP cruiser to assist him with his crimes;
- h) The RCMP failed to secure the perimeter of the community of Portapique to stop Wortman from leaving that community;
- i) The RCMP failed to accept and act on credible information provided by the public, Wortman's victims and Wortman's potential victims, including but not limited to the unnamed victim who first alerted the RCMP that he had

been shot by a person appearing to be in a police car on April 18, 2020 whom he believed may have been "Gabe" and the residents of Glenholme who advised on April 19, 2020 of Wortman's whereabouts and their personal knowledge of him;

- j) The RCMP failed to block the roads in northern Colchester County once it accepted that Wortman had left the community of Portapique;
 - k) The RCMP failed to use all resources available to it to enable it to track, locate and stop Wortman, including but not limited to a helicopter capable of conducting both nighttime and daytime searches of the land and forest in and around Portapique and neighboring communities wherein Wortman may have been hiding, or which it did employ such resources, it failed to do so in a timely or appropriate manner or in a manner;
 - l) The RCMP failed to request the assistance of nearby municipal police services, including the Amherst Police Department and the Truro Police Service, notwithstanding that the Truro Police Service, in particular, offered assistance, was nearby, ready to assist and would have easily stopped Wortman when he traveled through Truro in the replica police cruiser;
 - m) The RCMP failed to provide Constable Heidi Stevenson with a proper and adequate police cruiser and, as a result, Wortman had an advantage over her when their vehicles collided in Shubenacadie;
 - n) Other breaches of duty that might become clear once disclosure and discovery are complete.
44. Blair and O'Brien repeat the forgoing and plead that the AGNS breached its duties owed to the Class Members as follows:
- a) It failed to put into place policies and operational requirements for the investigation of illegal weapons complaints;
 - b) It failed to put into place policies and operational requirements for the investigation of complaints of physical abuse against women by their male partners;
 - c) It failed to adequately populate the Provincial Police force (the RCMP) in Colchester and Hants Counties;
 - d) It failed to provide adequate resources to the Provincial Police force (the RCMP) in Colchester and Hants Counties;

- e) It failed to put into place policies and operational requirements for the use of the Alert Ready system by the Provincial Police force (the RCMP);
 - f) It failed to put into place policies and operational requirements for the use of neighbouring police forces by the Provincial Police force (the RCMP);
 - g) It failed to properly oversee, audit, inspect and qualify the Provincial Police force (the RCMP);
 - h) Other breaches of duty that might become clear once disclosure and discovery are complete.
45. Blair and O'Brien repeat the forgoing and plead and rely upon the following causes of action: negligence, negligent investigation and breach of fiduciary duty.
46. Blair and O'Brien repeat the forgoing and plead that, by virtue of its engagement of the RCMP for the provision of police services in the Province, the AGNS is liable for the wrongs committed by the RCMP via the doctrines of agency and/or vicarious liability.
47. Blair and O'Brien repeat the forgoing and plead that the AGC and the AGNS are jointly and severally liable to the Class Members for the wrongs committed by the RCMP.
48. Blair and O'Brien repeat the forgoing and plead that the RCMP handled the Spree and its aftermath, including the RCMP's continuing response to Wortman's actions and subsequent investigation arising out of same, in a high-handed, self-serving and disrespectful manner and is deserving of punishment by way of an award of punitive damages.

Legislation

49. Blair and O'Brien plead and rely upon the following statutes and the regulations made thereunder, as amended, as appropriate: the *Fatal injuries Act, supra*; the *Survival of Actions Act, supra*; the *Estate Actions Act*, RSNS 1989, c 152; the *Tortfeasors Act*, RSNS 1989, c 471; the *Negligence Act*, RSNS 1989, c 95; the *Police Act*, SNS 2004, c 31; *Royal Canadian Mounted Police Act*, RSC 1985, c R-10; *Crown Liability and Proceedings Act*, RSC 1985, c C-50; *Proceedings Against the Crown Act*, RSNS 1989, c 360; and the *Judicature Act*, RSNS 1989, c 240.

Relief Sought

50. Blair and O'Brien claim on their behalves and on behalf of the Class Members:

- a) The certification of this proposed class proceeding pursuant to the *Class Proceedings Act, supra*.
- b) Special and General Damages pursuant to the *Fatal Injuries Act, supra*, for the statutory beneficiaries from each of subclasses A and B;
- c) Special and General Damages for the members from each of subclasses A and B for the injuries and damages suffered personally by those subclass members and for injuries and damages to their property;
- d) Punitive Damages;
- e) Pre-judgment interest;
- f) Costs; and,
- g) Such further and other damages or awards as this Honourable Court sees fit to grant as against the Defendants.

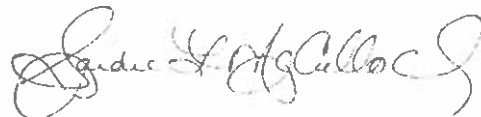
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Schedule A

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**Counsel for the Representative Plaintiffs,
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2. The Proposed Representative Plaintiff, Andrew Frederick O'Brien is a resident of Masstown, Colchester County, Nova Scotia (hereinafter "O'Brien").
3. The Defendant, the Attorney General of Canada, is the representative of the Federal Crown pursuant to the *Crown Liability and Proceedings Act*, RSC 1985, c C-50 (hereinafter "AGC").
4. The Defendant, The Attorney General of Nova Scotia, is the representative of the Provincial Crown pursuant to the *Proceedings Against the Crown Act*, RSNS 1989, c 360 (hereinafter "AGNS").
5. The Royal Canadian Mounted Police (hereinafter "the RCMP"), is the federal and national police force of Canada. The RCMP are constituted, maintained and overseen by the AGC pursuant to the *Royal Canadian Mounted Police Act*, RSC 1985, c R-10.
6. The RCMP is the Provincial Police force for the Province of Nova Scotia by contractual arrangements between the governments of Canada and Nova Scotia pursuant to the *Police Act*, SNS 2004, c 31. The Provincial Police force provides policing services for all areas not serviced by other means of law enforcement.

The Class Action

7. Blair and O'Brien bring the present Action on their own behalves and on behalf of the members of the two subclasses as a Class Proceeding pursuant to the *Class Proceedings Act*, SNS 2007, c 28.
8. Blair and O'Brien plead that the Class Proceeding is comprised of two subclasses, defined as follows:
 - a. Subclass A: Excluding Lisa Banfield and excluding RCMP personnel, All those estates and persons having claims arising from the actions of Gabriel Wortman committed in the community of Portapique on April 18 and/or 19, 2020, or as a result of the actions/inaction of the RCMP in its response to the actions of Gabriel Wortman. Subclass A has three further sub-subclasses, including those estates which are entitled to advance claims pursuant to the

Survival of Actions Act, RSNS 1989, c 452, those persons who are entitled to advance claims pursuant to the Fatal Injuries Act, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said Act, of those persons killed by Wortman within the community of Portapique, those persons who suffered personal injuries, and those persons who suffered damage to property;

- i. ~~Sub-subclass A(1): All of those estates which are entitled to advance claims pursuant to the Survival of Actions Act, RSNS 1989, c 452 and all of those persons who are entitled to advance claims pursuant to the Fatal Injuries Act, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said Act, of those persons killed by Wortman within the community of Portapique;~~
 - ii. ~~Sub-subclass A(2): All of those persons, excluding Lisa Banfield, who suffered personal injuries by the actions of Wortman, or as a result of the actions/inaction of the RCMP in its response to the actions of Wortman, within the community of Portapique;~~
 - iii. ~~Sub-subclass A(3): All of those persons, excluding Lisa Banfield, who suffered damage to property by the actions of Wortman within the community of Portapique;~~
- b. Subclass B: Excluding Lisa Banfield and excluding RCMP personnel, Aall those estates and persons having claims arising from the actions of Gabriel Wortman committed outside of the community of Portapique on April 18 and/or 19, 2020, or as a result of the actions/inaction of the RCMP in its response to the actions of Gabriel Wortman. ~~Subclass B has three further sub-subclasses;~~ including all those estates which are entitled to advance claims pursuant to the Survival of Actions Act, RSNS 1989, c 452 and all of those persons who are entitled to advance claims pursuant to the Fatal Injuries Act, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said Act, of those persons killed by Wortman outside of the community of Portapique, those persons who suffered personal injuries, and those persons who suffered damage to property.
- i. ~~Sub-subclass B(1): All of those estates which are entitled to advance claims pursuant to the Survival of Actions Act, RSNS 1989, c 452 and all of those persons who are entitled to advance claims pursuant to the Fatal Injuries Act, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said Act, of those persons killed by Wortman outside of the community of Portapique;~~

- ii. ~~Sub subclass B(2): All of those persons, excluding Lisa Banfield, who suffered personal injuries by the actions of Wortman, or as a result of the actions/inaction of the RCMP in its response to the actions of Wortman, outside of the community of Portapique;~~
- iii. ~~Sub subclass B(3): All of those persons, excluding Lisa Banfield, who suffered damage to property by the actions of Wortman outside of the community of Portapique.~~

9. Blair is the proposed Representative Plaintiff for Subclass A.
10. O'Brien is the proposed Representative Plaintiff for Subclass B.
11. Blair and O'Brien plead that the issues common to all of the members of the two subclasses are:
 - a) The liability of the AGC to the Class Members;
 - b) The liability of the AGNS to the Class Members;
 - c) The vicarious liability of the AGNS for the actions of the RCMP;
 - d) The joint and several liability of the AGC and the AGNS; and,
 - e) Punitive Damages;

all of which are as described in greater detail herein.

Background

12. Blair and O'Brien plead that during the evening hours of Saturday, April 18, 2020, Wortman began a spree of committing crimes ("the Spree") that included shooting people and pets with various firearms and burning property including cars and residential structures.
13. Blair and O'Brien plead that the Spree continued until approximately 11:26 a.m. on April 19, 2020.
14. Blair and O'Brien plead that during the Spree, Wortman killed 22 people; caused personal injuries to at least six people; burned at least four residential structures; burned or damaged at least three motor vehicles; and, killed or injured at least five pets.
15. Blair and O'Brien plead that Spree began in Portapique, Colchester County, Nova Scotia.

16. Blair and O'Brien plead that Wortman's first victim was Lisa Banfield, a woman with whom he then or formerly had an intimate relationship. Some time prior to 10:00 p.m. on April 18, 2020, Wortman assaulted her and she escaped into the forest and hid there until approximately 6:30 a.m. on April 19, 2020.
17. Blair and O'Brien plead that by approximately 10:00 p.m. on April 18, 2020, the RCMP had begun receiving messages from 911 advising of shootings in the Portapique area. The RCMP arrived in Portapique at approximately 10:20 p.m. to find buildings burning.
18. Blair and O'Brien plead that upon their arrival in Portapique, the RCMP were informed by an unnamed victim that that victim had been shot by a man in what appeared to be a police car, like those of the RCMP members who arrived on scene, and that the victim believed the shooter may have been "Gabe" who owned property in the area.
19. Blair and O'Brien plead that at approximately 11:32 p.m. on April 18, 2020, the RCMP issued a notice via social media platform Twitter, stating that it was responding to a firearms complaint in the Portapique area and advising the public to "stay inside their homes with doors locked at this time."
20. Blair and O'Brien plead that Wortman left the Portapique area at some point during the overnight of April 18-19, 2020, hiding overnight in or around Debert, Colchester County, Nova Scotia.
21. Blair and O'Brien plead that the RCMP failed to contain Wortman within the community of Portapique, and that the RCMP knew or ought to have known that Wortman had fled from Portapique, or that the RCMP ought to have conducted its operations upon the reasonable possibility that Wortman had fled from Portapique.
22. Blair and O'Brien plead that the RCMP issued a "Be On the Look Out" for Wortman to other RCMP members at or around 1:07 a.m. on April 19, 2020.
23. Blair and O'Brien plead that at approximately 6:30 a.m. on April 19, 2020, Lisa Banfield called 911 and reported to the RCMP that Wortman had an authentic RCMP uniform and a replica RCMP police cruiser and multiple firearms.
24. Blair and O'Brien plead that prior to Lisa Banfield informing the RCMP that Wortman was impersonating an RCMP officer (at approximately 6:30 a.m. on April 19, 2020, approximately eight hours after receiving similar information from the above-mentioned unnamed victim), Wortman killed 13 people; physically and/or psychologically injured at least five more; burned at least three residential buildings and damaged at least three motor vehicles.

25. Blair and O'Brien plead that at approximately 8:02 a.m. on April 19, 2020, the RCMP issued a further notice on Twitter stating that there is an "active shooter situation" in Portapique where it remained on scene, and asked residents "in the area" to "stay inside your homes & lock your doors." Shortly thereafter, at approximately 8:54 a.m., a further notice on Twitter was issued by the RCMP, stating Wortman's identity and describing him as "a white man, bald, 6'2-6'3 with green eyes" and "armed & dangerous."
26. Blair and O'Brien plead that, in fact, Wortman had by this time left Debert and traveled to Wentworth, Colchester County, Nova Scotia, arriving at or around 6:30 a.m. and remaining there until approximately 9:23 a.m., during which time he killed three people and burned at least one residential building containing two dogs.
27. Blair and O'Brien plead that, several hours later, Wortman traveled back in the direction of Debert (and eventually on to Truro, Colchester County, Nova Scotia), separately killing three more people en route between approximately 9:23 a.m. and 10:08 a.m.
28. Blair and O'Brien plead that at or around 9:48 a.m., Wortman also approached another home in Glenholme, Colchester County, Nova Scotia where he attempted unsuccessfully to gain access. The residents of that home contacted the RCMP at the Bible Hill Detachment, who has already contacted 911 10-15 minutes prior to inform authorities of their knowledge of Wortman and his possession of replica police cars, to advise that they knew that it was Wortman who was at their home and that he was driving an RCMP cruiser. The RCMP did not respond to the call, appearing to disagree with the information provided by the Glenholme residents, the residents receiving a call shortly thereafter that Wortman was en route to Lower Onslow, Colchester County, Nova Scotia and to remain their home. At or around 10:04 a.m., the RCMP issued a further notice on Twitter advising the public to "avoid HWY 4 near Hidden Hilltop campground in #Glenholme. Gabriel Wortman is in the area."
29. Blair and O'Brien plead that at approximately 10:17 a.m., the RCMP issued a further notice on Twitter stating that Wortman "may be driving what appears to be an RCMP vehicle & may be wearing an RCMP uniform." A few minutes later, at or around 10:21 a.m., the RCMP issued a further notice on Twitter stating that Wortman was "currently in the #CentralOnslow #Debert area in a vehicle that may resemble what appears to be an RCMP vehicle & may be wearing what appears to be an RCMP uniform. Please stay inside and avoid the area."
30. Blair and O'Brien plead that Wortman next traveled to Shubenacadie, Hants County, Nova Scotia in which community he injured Constable Chad Morrison and killed three more people, including Constable Heidi Stevenson, burned two motor vehicles, stole two motor vehicles and shot and injured a dog between approximately 10:49 a.m. and 11:06 a.m.

31. Blair and O'Brien plead that at or around 11:04 a.m., the RCMP issued a further notice via Twitter stating that Wortman was "last seen travelling southbound on Hwy #102 from #Brookfield area in what appears to be RCMP vehicle & may be wearing RCMP uniform." At or around 11:06 a.m., the RCMP issued a further notice via Twitter stating that Wortman was "now believed to be driving small silver Chevrolet SUV. Travelling southbound on Hwy #102 from #Brookfield area." Shortly thereafter, at or about 11:24 a.m., the RCMP issued a further notice via Twitter confirming that Wortman was driving a "silver Chevy Tracker" and that he was "Last seen #Milford."
32. Blair and O'Brien plead that Wortman next traveled to Enfield, on the border of Hants County and Halifax County, Nova Scotia where Wortman was shot and killed by the RCMP at or around 11:26 a.m., at which time he was found to be driving a Mazda3.
33. Blair and O'Brien plead that Wortman used the RCMP uniform and the replica RCMP cruiser during the majority of the Spree, except to kill the final person in Shubenacadie.
34. Blair and O'Brien plead that at no time did the RCMP, or anybody else on its behalf or independently, issue an alert via Alert Ready, an emergency alert system available to Nova Scotia to distribute public safety messages Province-wide.
35. Blair and O'Brien plead that, even with Wortman's death, the RCMP's response to Wortman's actions continued and a number of aspects of this response, as well as the RCMP's subsequent investigation into Wortman's actions, were carried out in a high-handed, self-serving and disrespectful manner, including but not limited to the following examples:
 - a) It deliberately misled O'Brien by telling him that Heather O'Brien was shot and killed from "across the road;"
 - b) It deliberately misled the Class Members and the public during its press conference on June 4, 2020 in that it confirmed that nobody was pulled over in their cars by Wortman using the replica RCMP cruiser;
 - c) It misled various of the Class Members regarding the requirements to keep the mobile phones of their deceased family members;
 - d) It carelessly misled at least one of the Class Members about a possible relationship their deceased family member might have had with Wortman prior to their death;

- e) It released the automobile of a deceased family member to a Class Member after the investigation with gun casings and body parts still in the automobile. The Class Member was required to clean the automobiles themselves;
 - f) It refused to provide information to the Class Members regarding their family members' deaths while failing to secure that information from release to other persons or organizations until such time as Class Members were properly informed;
 - g) It allowed photographs and/or videos of the deceased to be made public on social media before the Class Members were informed of their family members' deaths; and
 - h) It allowed a deceased victim's body to remain in a vehicle while said vehicle was towed from a crime scene to be collected and analysed as evidence, rather than ensuring that the body was first removed and cared for in the appropriate manner before the vehicle was seized; and,
 - i) It failed to collect evidence from multiple crime scenes, whether in a timely manner or at all.
36. Blair and O'Brien plead that, subsequent to the Spree, it became publically known that the RCMP knew or ought to have known that Wortman had a history of violent behaviour, including but not limited to a prior criminal conviction related to an assault Wortman committed against a minor, a report of a threat made by Wortman related to killing a police officer, and one or more reports of threats of violence committed against his then-common law partner, and that Wortman had possession of illegal weapons and ammunition.

The Proposed Representative Plaintiffs

37. 35. Blair is the son of the deceased Greg Blair and the stepson of the deceased Jamie Blair. Wortman killed Greg Blair and Jamie Blair in their home in Portapique and then burned the house on April 18, 2020. Blair's two younger brothers were in the home, but were not killed by Wortman.
38. 36. O'Brien is the widower of the deceased Heather O'Brien. At or around 10:08 a.m. on April 19, 2020, Wortman impersonated an RCMP officer to stop her on the road near her home in Masstown, Colchester County, Nova Scotia and shot her to death in her car.

- ~~39.~~ ~~37.~~ Blair and O'Brien will be seeking and presume that they will be granted the status of Personal Representative of the Estates of Greg Blair and Heather O'Brien, respectively.
- ~~40.~~ ~~38.~~ Blair and O'Brien are willing to represent all of the members of all subclasses should this action be certified, to provide instructions to legal counsel, to attend discovery examinations, attend and testify at motions and trials of this Action.

Causes of Action and Liability

- ~~41.~~ ~~39.~~ Blair and O'Brien repeat the forgoing and plead that the Class Members and those killed and injured and those who suffered property damage by Wortman were vulnerable members of society who relied exclusively on the AGC (the RCMP) and the AGNS for police services and whose basic safety and security, both personally and financially, were compromised and/or lost by the AGC (the RCMP) and the AGNS' failure to fulfill the duties owed to them as vulnerable members of society. Blair and O'Brien further plead that the AGC (the RCMP) and the AGNS owed to the Class Members a fiduciary duty to provide for their safety and security with the highest level of honesty, good faith and in the best interests of the Class Members and those killed and injured and those who suffered property damage by Wortman and that the AGC (the RMCP) and the AGNS failed to fulfill that fiduciary duty at all times material hereto, including but not limited to as alleged herein.
- ~~42.~~ ~~40.~~ Blair and O'Brien repeat the forgoing and plead that the AGC (the RCMP) and the AGNS owed a duty of care to the Class Members and those killed and injured and those who suffered property damage by Wortman and that the AGC (the RCMP) and the AGNS breached the standard of care expected of them.
- ~~43.~~ ~~41.~~ Blair and O'Brien repeat the forgoing and plead that the AGC (the RCMP) and the AGNS breached their duties owed to the Class Members and those killed and injured and those who suffered property damage by Wortman as follows:
- a) The RCMP failed to investigate and/or take action in relation to reports that it received prior to the Spree that Wortman had in his possession illegal weapons;
 - b) The RCMP failed to investigate and/or take action in relation to reports that it received prior to the Spree that Wortman was physically abusive to women and that he in fact physically abused women;
 - c) The RCMP failed to investigate and/or take action in relation to reports and notices that it received prior to the Spree that Wortman stated that he wished to harm police officers;

- d) The RCMP sent too few members to Portapique to adequately respond to the crimes being committed there by Wortman and/or, of those members sent to Portapique, the RCMP failed to direct or permit said members to take appropriate action to respond to the threat present by Wortman, whether to prevent him from committing further crimes or to apprehend him or otherwise, while he remained in Portapique;
- e) The RCMP failed to employ an Emergency Response Team when it ought to have done so during the Spree, or when the RCMP did employ an Emergency Response Team during the Spree, it failed to do so in a timely or appropriate manner and failed to instruct said Emergency Response Team to mobilize in a manner that was likely to have located and contained Wortman;
- f) The RCMP sent alerts via Twitter that were inadequate because: 1) the population affected by the Spree was older in age and less likely to be users of Twitter, and in any event the RCMP had no knowledge as to which, if any, citizens of the Nova Scotia were users of Twitter and/or would be able to receive an alert via Twitter in a timely matter or at all on April 18 and/or 19, 2020; 2) the internet coverage in a large portion of the area affected by the Spree was inadequate to provide the Twitter alerts to the entire population affected by the Spree; and 3) the information contained in the Twitter alerts were either inaccurate or insufficient to allow the population affected by the Spree to properly protect itself;
- g) The RCMP failed to use the Alert Ready system to send an Emergency Alert to the public in Nova Scotia to warn the public, and that such warning ought to have included the nature of Wortman's alleged crimes and that he was using an RCMP uniform and replica RCMP cruiser to assist him with his crimes;
- h) The RCMP failed to secure the perimeter of the community of Portapique to stop Wortman from leaving that community;
- i) The RCMP failed to accept and act on credible information provided by the public, Wortman's victims and Wortman's potential victims, including but not limited to the unnamed victim who first alerted the RCMP that he had been shot by a person appearing to be in a police car on April 18, 2020 whom he believed may have been "Gabe" and the residents of Glenholme who advised on April 19, 2020 of Wortman's whereabouts and their personal knowledge of him;
- j) The RCMP failed to block the roads in northern Colchester County once it accepted that Wortman had left the community of Portapique;

- k) The RCMP failed to use all resources available to it to enable it to track, locate and stop Wortman, including but not limited to a helicopter capable of conducting both nighttime and daytime searches of the land and forest in and around Portapique and neighboring communities wherein Wortman may have been hiding, or which it did employ such resources, it failed to do so in a timely or appropriate manner or in a manner;
 - l) The RCMP failed to request the assistance of nearby municipal police services, including the Amherst Police Department and the Truro Police Service, notwithstanding that the Truro Police Service, in particular, offered assistance, was nearby, ready to assist and would have easily stopped Wortman when he traveled through Truro in the replica police cruiser;
 - m) The RCMP failed to provide Constable Heidi Stevenson with a proper and adequate police cruiser and, as a result, Wortman had an advantage over her when their vehicles collided in Shubenacadie;
 - n) Other breaches of duty that might become clear once disclosure and discovery are complete.
44. 42. Blair and O'Brien repeat the forgoing and plead that the AGNS breached its duties owed to the Class Members as follows:
- a) It failed to put into place policies and operational requirements for the investigation of illegal weapons complaints;
 - b) It failed to put into place policies and operational requirements for the investigation of complaints of physical abuse against women by their male partners;
 - c) It failed to adequately populate the Provincial Police force (the RCMP) in Colchester and Hants Counties;
 - d) It failed to provide adequate resources to the Provincial Police force (the RCMP) in Colchester and Hants Counties;
 - e) It failed to put into place policies and operational requirements for the use of the Alert Ready system by the Provincial Police force (the RCMP);
 - f) It failed to put into place policies and operational requirements for the use of neighbouring police forces by the Provincial Police force (the RCMP);
 - g) It failed to properly oversee, audit, inspect and qualify the Provincial Police force (the RCMP);

- h) Other breaches of duty that might become clear once disclosure and discovery are complete.
45. 43. Blair and O'Brien repeat the forgoing and plead and rely upon the following causes of action: negligence, negligent investigation and breach of fiduciary duty.
46. 44. Blair and O'Brien repeat the forgoing and plead that, by virtue of its engagement of the RCMP for the provision of police services in the Province, the AGNS is liable for the wrongs committed by the RCMP via the doctrines of agency and/or vicarious liability.
47. 45. Blair and O'Brien repeat the forgoing and plead that the AGC and the AGNS are jointly and severally liable to the Class Members for the wrongs committed by the RCMP.
48. Blair and O'Brien repeat the forgoing and plead that the RCMP handled the Spree and its aftermath, including the RCMP's continuing response to Wortman's actions and subsequent investigation arising out of same, in a high-handed, self-serving and disrespectful manner and is deserving of punishment by way of an award of punitive damages.

Punitive Damages

46. ~~Blair and O'Brien repeat the forgoing and plead that the Provincial Police force (the RCMP) has handled the Spree and its aftermath in a high handed, self serving and disrespectful manner and is deserving of punishment. The RCMP has acted in this manner as follows:~~
- a) ~~It deliberately misled O'Brien by telling him that Heather O'Brien was shot and killed from "across the road;"~~
- b) ~~It deliberately misled the Class Members and the public during its press conference on June 4, 2020 in that it confirmed that nobody was pulled over in their cars by Wortman using the replica RCMP cruiser;~~
- c) ~~It misled various of the Class Members regarding the requirements to keep the mobile phones of their deceased family members;~~
- d) ~~It carelessly misled at least one of the Class Members about a possible relationship their deceased family member might have had with Wortman prior to their death;~~
- e) ~~It released the automobile of a deceased family member to a Class Member after the investigation with gun casings and body parts still in the~~

~~automobile. The Class Member was required to clean the automobiles themselves;~~

- ~~f) — It refused to provide information to the Class Members regarding their family members' deaths while failing to secure that information from release to other persons or organizations until such time as Class Members were properly informed;~~
- ~~g) — It allowed photographs and/or videos of the deceased to be made public on social media before the Class Members were informed of their family members' deaths;~~
- ~~h) — It allowed a deceased victim's body to remain in a vehicle while said vehicle was towed from a crime scene to be collected and analysed as evidence, rather than ensuring that the body was first removed and cared for in the appropriate manner before the vehicle was seized;~~
- ~~i) — Other such instances of high handed, self serving and disrespectful conduct that might become clear once disclosure and discovery are complete.~~

~~47. — Blair and O'Brien repeat the forgoing and plead that those actions of the RCMP are deserving of punishment by an award of punitive damages.~~

Legislation

- ~~49.~~ 48. Blair and O'Brien plead and rely upon the following statutes and the regulations made thereunder, as amended, as appropriate: the *Fatal injuries Act, supra*; the *Survival of Actions Act, supra*; the *Estate Actions Act*, RSNS 1989, c 152; the *Tortfeasors Act*, RSNS 1989, c 471; the *Negligence Act*, RSNS 1989, c 95; the *Police Act*, SNS 2004, c 31; *Royal Canadian Mounted Police Act*, RSC 1985, c R-10; *Crown Liability and Proceedings Act*, RSC 1985, c C-50; *Proceedings Against the Crown Act*, RSNS 1989, c 360; and the *Judicature Act*, RSNS 1989, c 240.

Relief Sought

50. 49. Blair and O'Brien claim on their behalves and on behalf of the Class Members:
- a) The certification of this proposed class proceeding pursuant to the *Class Proceedings Act, supra*.
 - b) Special and General Damages pursuant to the *Fatal Injuries Act, supra*, for the for the statutory beneficiaries ~~comprising sub-subclasses A(1) and B(1) from~~ each of subclasses A and B;

- c) Special and General Damages for the members of ~~sub-subclasses A(2), A(3), B(2) and B(3)~~ from each of subclasses A and B for the injuries and damages suffered personally by those subclass members and for injuries and damages to their property;
- d) Punitive Damages;
- e) Pre-judgment interest;
- f) Costs; and,
- g) Such further and other damages or awards as this Honourable Court sees fit to grant as against the Defendants.

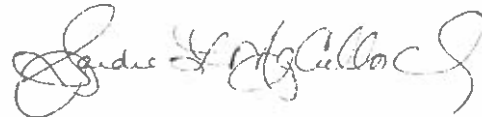
Signature

Signed the 16th day of June, 2020.

Amended the 31st day of August, 2020.

Further amended the 30th day of December, 2020.

Further amended the 30th day of July, 2021.



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