

# Court of King's Bench of Alberta

**Citation: Bees v Canada (Attorney General), 2024 ABKB 704**

**Date:** 20241127  
**Docket:** 2101 07744  
**Registry:** Calgary

2024 ABKB 704 (CanLII)

Between:

Bobbie Bees as Proposed Representative Plaintiff,  
Proceeding under the Class Proceedings Act, 1992

Plaintiff

- and -

His Majesty the King in right of Canada  
As Represented by the Attorney General of Canada

Defendant

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## Reasons for Decision of the Honourable Justice R.A. Neufeld

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### Overview

[1] Bobby Bees has issued a Statement of Claim against the Government of Canada, which he now seeks to have certified as a class proceeding pursuant to the *Class Proceedings Act*, SA 2003, C-16.5 (the “CPA”).

[2] The Statement of Claim alleges that the Applicant was a victim of sexual abuse at Canadian Forces Base (“CFB”) Namao between 1978 and 1980, when he was a boy of 7 to 9 years. As best as the Applicant can recall, the person who perpetrated the direct abuse alleged was another child - “PS.” That child was approximately 12 to 14 years of age at the time and served as an altar boy in the chapel at the military base.

[3] PS had, in turn, been the subject of sexual abuse by Captain Father Angus McRae (“Father McRae”). Father McRae held the posting of Chaplain at CFB Namao from 1978-1980.

[4] The Applicant recalls that on one occasion he was led by PS to the chapel where he was given a sickly-sweet liquid. He believes that he was sexually assaulted, and that Father McRae was involved. He also attests that on other occasions, Father McRae facilitated babysitting by PS of the Applicant and his brother, during which sexual abuse took place.

[5] The investigation of the alleged abuse of the Applicant by PS led military police to open an investigation of Father McRae as well. In June 1980, the Catholic diocese convened an ecclesiastical court at which Father McRae admitted to having sexually abused “several minors” over the preceding “couple of years” and was punished by the imposition of mandatory counselling, to be followed by five years of residency at a monastery or similar institution.

[6] Father McRae was court martialled in July, 1980.

[7] In 2008, a civil action brought by PS against Father McRae was resolved by settlement. Although referred to the Crown for review and prosecution, it was determined that no charges would be brought against PS. He was approximately 12 to 14 years old at the time of the alleged abuse of the Applicant, who was 7-9 years old, making prosecution infeasible. Father McRae was also not prosecuted for the events at CFB Namao, but after leaving the military and relocating to Ontario, he was eventually convicted of sexual offences in that province, according to the Applicant.

[8] In his Statement of Claim, the Applicant alleges that Canada is responsible for the assaults perpetrated on the Applicant by PS. He alleges that Canada should be held vicariously liable for the conduct of its employee, Father McRae, and Father McRae’s agent (PS) in the perpetration of sexual abuse at CFB Namao. He also alleges that Canada is liable in negligence - both direct and systemic - and for breach of fiduciary duty.

[9] The issue before me is whether the claim advanced by Mr. Bees should proceed as a class action. He contends that from a procedural perspective, it is necessary for the action to proceed on a class basis given the nature of the claim and the disparity of resources between him, other victims, and the government of Canada.

[10] The Defendant opposes certification of the action as framed. It contends that the Statement of Claim does not disclose a cause of action against Canada in negligence or trust in respect of the assaults perpetrated by PS; nor does it disclose a cause of action against Canada under the doctrine of vicarious liability for such assaults.

[11] To decide this application, I must determine whether the five criteria for class action certification under the *CPA* have been met. Although there must be some evidence to support the claim being advanced, the focus of the court’s assessment at this stage is procedure. The court must apply the criteria for certification set out in the statute. In that context the Court must determine whether, from a procedural perspective, it is appropriate for the claim to proceed as a class action rather than being advanced as separate actions by individual plaintiffs. I have decided that with certain modifications, the claim can and should be advanced as a class proceeding, as it satisfies the statutory criteria for certification.

## General Principles

[12] Section 5(1) of the *CPA* provides that the court is to certify an action as a class proceeding where the following conditions are met:

- (a) the pleadings disclose a cause of action;
- (b) there is an identifiable class of 2 or more persons;
- (c) the claims of the prospective class members raise a common issue, whether or not the common issue predominates over issues affecting only individual prospective class members;
- (d) a class proceeding would be the preferable procedure for the fair and efficient resolution of the common issues;
- (e) there is a person eligible to be appointed as a representative plaintiff who, in the opinion of the Court,
  - (i) will fairly and adequately represent the interests of the class,
  - (ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
  - (iii) does not have, in respect of the common issues, an interest that is in conflict with the interests of other prospective class members.

[13] Each of these prerequisites must be met, and if they are, the Court must certify the action as a class proceeding: *Spring v Goodyear Canada Inc*, 2021 ABCA 182 at para 17. The first requirement of the pleadings disclosing a cause of action will be satisfied through a review of the pleadings. The other requirements require an “adequate evidentiary record” which establishes “some basis in fact” for the order of certification: *Setoguchi v Uber BV*, 2023 ABCA 45 at para 19 [*Uber BV*], citing *Pro-Sys Consultants Ltd v Microsoft Corporation*, 2013 SCC 57 at para 99 [*Microsoft*].

[14] At this stage, the Court must be careful not to engage in a detailed assessment of the merits of the claim. The focus is on the form of action and determining whether the action can appropriately move forward as a class proceeding: *Microsoft* at para 102. Because certification is a procedural motion, the *CPA* is to be given a broad and remedial interpretation that will allow cases to proceed as class actions where the criteria for certification have been met without the necessity of assessing the reliability and credibility of evidence tendered by the proposed plaintiff. I consider this to be particularly important where the claims advanced relate to historical sexual abuse. In such cases, the passage of time may leave few witnesses available for trial and may have dimmed the memories of those who remain. This makes pretrial discovery and document production essential for a proper assessment of the merits of the case, neither of which will have taken place at the certification stage.

[15] At the same time, certification is not simply a formality or rubberstamp. If the pleadings do not disclose a viable cause of action, for example, then certification ought not to be granted.

However, where more than one cause of action is alleged, certification may be granted in part: *Willott v Northwynd Resort Properties Ltd*, 2021 ABQB 747 at para 28; see also *Uber BV*.

## The Statutory Requirements

### (a) Do the pleadings disclose a cause of action?

[16] The Applicant argues that his Statement of Claim asserts three “relatively straightforward” causes of action based in negligence, failure to meet the applicable standard of care, and breach of fiduciary duty.

[17] The Defendant takes issue with that characterization. It says that the essential claim advanced is for the intentional tort of assault. However, the assaults described in the Statement of Claim were not perpetrated by Father McRae but by the 12-year-old PS (aside from an incident that involved an unnamed armed forces Major to whom PS allegedly brought the Applicant for a sexual encounter). It also contends that the Statement of Claim does not support the allegation that the Applicant and other children at CFB Namao were under the custody, control and supervision of the Government of Canada or that Canada acted in *loco parentis* in respect of children at the base. These, it suggests, are bare allegations, unsupported by any facts and do not support a claim for breach of fiduciary duty. It also argues that principle of vicarious liability cannot be extended to make Canada liable (Qua employer) for assaults committed by another child at the military base.

[18] I find that there are two certifiable causes of action contained in the Statement of Claim. The first is grounded in the vicarious liability of Canada for the sexual misconduct of Father McRae while employed at CFB bases and interacting with minors. The second is direct liability in negligence.

[19] In *VLM v Dominey Estate*, 2023 ABCA 261 [*VLM*], the Court of Appeal held that direct liability in a similar case could be based on (i) a failure to screen [the priest] before he was placed at the [location], (ii) a failure to supervise him, or (iii) “inadequate policies” resulting in direct liability for his sexual assaults, even if there was no vicarious liability: at para 31.

[20] The Court of Appeal went on to note that if the class can establish vicarious liability, then establishing direct, or “systemic” liability would be redundant. Nonetheless, these are all common issues and resolution as such in a class proceeding would significantly advance the action: *Microsoft* at para 140.

[21] Canada fairly concedes that the circumstances of this claim may have supported a class proceeding on behalf of victims of sexual assaults perpetrated by Father McRae at CFB Namao. In fact, it suggests that if certified, the class proceeding should also include victims of sexual assaults at other military bases in Canada where Father McRae had been previously assigned. It argues, however, that the facts contained in the Statement of Claim only support a cause of action against the altar boy PS. Canada argues that the doctrine of vicarious liability cannot possibly extend to impose liability on Canada for actions taken by a 12 to 14 year-old.

[22] To some extent I agree with Canada. At trial, the issue of causation as it relates to the Applicant is one that is likely to take centre stage, particularly in respect of the claim of negligence. However, it would be premature to find that there is no cause of action against Canada for the purpose of certification simply because the physical contact alleged in the Statement of Claim included someone other than Father McRae.

[23] To begin with, the position taken by Canada (and to a degree in the Statement of Claim) overlooks the distinction between the tort of assault and the tort of battery. The latter requires proof of direct physical contact: Erika Chamberlain & Stephen G.A. Pitel, eds., *Fridman's The Law of Torts in Canada*, 4th ed. (Toronto: Carswell, 2020) at 75 [*Fridman's*]. The tort of assault does not. It is committed when a person intentionally causes another person to fear imminent contact of a harmful or oppressive nature. A threat or other intimidating conduct can suffice: *Fridman's* at 75. Two other forms of trespass to the person, false imprisonment (being prevented from enjoying complete freedom of movement) and intentional infliction of nervous shock, emotional distress, or psychiatric harm, are recognized as torts by the Common Law. Neither require physical contact by the tortfeasor.

[24] It follows that if commission of a tort by Father McRae on Mr. Bees is a prerequisite to Canada being held liable in negligence or pursuant to the doctrine of vicarious liability and the *Proceedings Against the Crown Act*, RSA 2000, c P-25, there are numerous legal pathways to such a finding that do not require proof of physical contact. For example, Mr. Bees attests that he was taken to the chapel where he was drugged and sexually abused by PS, in the presence of Father McRae. Similarly, Mr. Bees attests that Father McRae arranged for PS to babysit Mr. Bees and his brother, during which sexual abuse took place. If proven at trial, both instances of abuse could give rise to a finding of negligence or assault by Father McRae, and potentially false imprisonment or intentional infliction of emotional distress or psychiatric harm with or without evidence of physical contact between him and the victim involved.

[25] Canada's ultimate liability in negligence would depend on whether the evidence adduced at trial established a duty of care, a breach of the standard of care required at law, causation and damages. Much of that evidence remains to be marshalled through the pre-trial discovery and production processes.

[26] It is not disputed that Father McRae was employed by the Canadian Armed Forces, with the rank of Captain. He was assigned to a major Canadian Armed Forces base. He admitted to having sexually abused several children during his "couple of years" at the base, was court-martialled and was separated charged and sentenced to penitence by the Catholic Church. One of the children he abused was himself investigated for abusing Mr. Bees, with that investigation leading the military police to open an investigation of Father McRae himself.

[27] These facts and circumstances all beg the question of how the late Father McRae came to be given the opportunity to minister to children at CFB bases in Canada, and to sexually abuse children for at least a couple of years without detection. The Applicant and other alleged victims should be given the opportunity to show that Canada was negligent in the hiring and supervision of its employee.

[28] While inelegantly crafted, the amended Statement of Claim, when considered in context, sufficiently pleads the facts necessary to show a viable cause of action in negligence.

[29] Vicarious liability is grounded in the principle that in appropriate circumstances, an employer will be held strictly liable for actions taken by their employee that cause damage to third parties. This can include sexual abuse of third parties where it is shown that there is a sufficiently "substantial" connection between the employee's job-conferred power and the sexual abuse that occurred, as opposed to merely providing an opportunity for such abuse: *Fridman's* at 342.

[30] Historically, Canadian Courts have been reluctant to impose no-fault vicarious liability on employers for the misconduct of employees. This is particularly the case where the misconduct is contrary to the fundamental values and objectives of the employer and clearly beyond the scope of the employment relationship: *Jacobi v Griffiths* [1999], 2 SCR at para 53; *McDonald v Mombourquette*, (1996) 152 NSR (2d) 109 (C.A.) (leave to appeal refused, [1997] 2 SCR xi).

[31] One circumstance in which vicarious liability has been found under the substantial connection test is where the employee occupies a “parental” position. For example, vicarious liability was imposed on the United Church of Canada and the federal government for sexual assaults committed by a dormitory supervisor at a residential school, who had the authority of and functioned as the parent to victimized students: *Blackwater v Plint* (1998), 161 DLR (4<sup>th</sup>) 538 (BCSC).

[32] In *VLM*, our Court of Appeal certified a class action against the Catholic Church and the Alberta government for sexual abuse of incarcerated minors by a chaplain working at the Edmonton Youth Correction Center.

[33] Although CFB Namao was neither a correctional facility nor a residential school, it was also not a public school or a recreational club where vicarious liability has not been imposed for sexual assaults by employees such as janitors or counsellors. The position held by Father McRae was part ecclesiastical, and part military. He had the power of a priest, and the rank of Captain. He exercised those powers within the base community, and the military hierarchy.

[34] As the evidentiary record is developed, more clarity will be achieved as to the relationship between Father McRae, his military parishioners, and their children. The facts as pled disclose some basis for a sufficiently substantial connection to make an arguable case for vicarious liability. Accordingly, that cause of action is certified.

[35] The other cause of action advanced by the Applicant is breach of fiduciary duty.

[36] I agree with Canada that the facts pled do not reveal a cause of action in fiduciary duty. In particular, there is no basis to conclude that Canada stood in *loco parentis* toward minors on the military base. Based on the evidence of Mr. Bees children who resided on the base were under the day-to-day care of their parents and guardians, not the armed forces or its employees. This includes Father McRae and Captain Terry Totske, who provided counselling to Mr. Bees after the Bees family moved away from CFB Namao. The claims made at paragraphs 11-13 of the Statement of Claim that Canada had “care, custody, control and supervision” of children on base and acted in *loco parentis* toward them are bare allegations that were substantially refuted by the Applicant. While Canada may well have owed a duty of care toward children on the base, it clearly did not owe them a fiduciary duty.

[37] I conclude therefore that the claim of breach of fiduciary duty will not be certified. It is “plain and obvious” that it cannot succeed: *Flesch v Apache Corporation*, 2022 ABCA 374 at para 30.

**(b) Is there an identifiable class of two or more persons?**

[38] The Applicant proposes that the class members will be described as follows:

“The proposed Representative Plaintiff claims on behalf of himself, and pursuant to the *Class Proceedings Act*, SA 2003, c. C-16.5 all other individuals who,

residing in Canada, were the victims of abuse through the intentional physical, mental and sexual acts of Father Angus McRae or his agents on Canadian forces bases.”

[39] The Applicant argues that the class is defined clearly and can be objectively determined.

[40] Canada supports inclusion of potential sexual abuse victims at Canadian forces bases where Father McRae was stationed prior to CFB Namao from 1978 to 1980. Canada argues, however, that the class members should be comprised of minors only and there should be no reference to “agents” of Father McRae. Canada proposes that the class be defined as follows should certification be granted:

“The proposed Representative Plaintiff claims on behalf of himself, and pursuant to the *Class Proceedings Act*, SA 2003, C-16.5, all other individual(s) residing in Canada who, as minors, were physically, mentally, or sexually abused on a Canadian Armed Forces (“CAF”) base (base facilities and military housing) by Captain Father Angus McRae (“McRae”) while he served as a CAF chaplain, and is not a member of any other class in a class proceedings in respect of the abuse and/or has not otherwise received compensation paid out of the Consolidated Revenue Fund in respect of that abuse.”

[41] I agree with Canada that the class would be more clearly defined and objectively determinable if it refers to minors only. I also agree that inclusion of the term “agents” is inappropriate. In the circumstances of this case, a clearer and more objectively determinable class would be minors who were the victims of sexual misconduct on a Canadian forces base by Father Angus McRae, including sexual abuse committed directly by Father Angus McRae or with his participation, encouragement, or facilitation.

[42] Based upon this definition of class members, I am satisfied that there is an identifiable class of two or more persons. Father McRae confessed at his June 1980 ecclesiastical trial to having sexually assaulted several minors in the preceding couple of years. This would have covered his two-year assignment at CFB Namao. The Applicant attested to his belief that the number of victims was between 2 and 25. Some of those victims are now dead, as is Father McRae, who died in 2011. It is reasonable to believe that the number of victims will never be known, but it is at least two or more.

### **(c) Common issues**

[43] Section 5(1)(c) of the *CPA* provides that the court is to certify an action as a class proceeding where, among other things: “the claims of the prospective class members raise a common issue, whether or not the common issue predominates over issues affecting only individual prospective class members”.

[44] Common issues can relate to matters of law, fact, or both. Because certification is a procedural step, the focus of this criterion is to identify and articulate questions that are likely to be raised in respect of most or all of the class members and which are therefore most efficiently answered in a common proceeding. The *CPA* recognizes that individual claims may give rise to unique questions, but that does not prevent certification. Rather, those questions are best addressed at an individual trial following the common issues trial.

[45] At the certification stage, it is reasonable to expect that not all factual and legal issues raised in a class proceeding will be capable of identification. Many issues may only emerge after

pretrial questioning for discovery and document production. To catalogue with particularity all common issues that might emerge would be a fool's errand.

[46] In this case, the application for certification requests an order stating the nature of the claims against Canada which restates various claims contained within. The claims include “duty of care”, “fiduciary duty”, “vicarious liability”, “negligence, breach of trust, breach of fiduciary duty”, details of alleged physical sexual and mental abuse, and particulars of alleged negligence—primarily systemic in nature.

[47] It goes on to request an order certifying the following issues as common issues:

- (1) Would all or nearly all of the class members have been impacted by the wrongdoing alleged?
- (2) Can the alleged damages be estimated on a class-wide aggregated basis?
- (3) What are the estimated class-wide damages on an aggregated basis?
- (4) Are some or all of the class members entitled to recover damages for one or more of negligence, breach of trust or breach of fiduciary duty?

[48] With respect, the articulation of common issues provided by the Applicant is not particularly helpful. Repetition of the allegations contained in the Statement of Claim does not advance common issue identification for the purpose of certification. Nor does identifying as a common issue whether all or nearly all the class members have been impacted by the wrongdoing alleged. The proposed class definition only includes those who had been impacted.

[49] Nonetheless, there are certain common issues that can be identified at this stage from the pleadings and arguments. I will borrow the first two from the common issues identified by the Court of Appeal in *VLM*.

[50] In *VLM*, a class action was certified against the estate of the late father William Dominey, the Synod of the Diocese of Edmonton, and the Alberta Government. The claim involved allegations of sexual misconduct by father Dominey against boys who were incarcerated at the Edmonton Youth Development Centre (the “Center”) between 1985 and 1989.

[51] The case management Judge found that the preconditions to certification had been met, except for the requirement that a class proceeding would be the preferable procedure for the fair and efficient resolution of the common issues. This was despite his finding that there were common issues that could be identified with respect to various aspects of the claims. These included issues of fact such as the layout of the Centre, the conditions of confinement within the Centre at the relevant times, the circumstances in which Father Dominey came to be working at the Centre, the relationship between the father, Alberta, and the Synod, and the supervision and oversight of Father Dominey at the Center: *VLM* at para 43.

[52] The Court of Appeal found that the case management judge erred in refusing certification by, among other things, overemphasizing the personal nature of sexual abuse and its unsuitability for resolution in a class proceeding. The matter was referred back to the chambers judge for any necessary or appropriate refinement of the common issues and to deal with other details respecting the certification.



[53] In sending the matter back, the Court of Appeal identified two common issues that are apposite to this case. The first was: “Is the Government of Alberta directly or vicariously responsible for any damage suffered by members of the class arising from sexual assaults committed on them by the late father Dominey at the Edmonton youth development Centre?” The second was: “What were the common background circumstances at the Centre?”

[54] Applied to this case, the common issues for certification can be restated as follows:

- (1) Is the Government of Canada directly or vicariously responsible for any damage suffered by members of the class due to the sexual misconduct of the late Father McRae at a Canadian forces base during his employment by the government of Canada?
- (2) Under what circumstances did Father McRae come to be working at armed forces bases in Canada, either at CFB Namao or earlier?
- (3) What was the relationship between Father McRae and Canada, and the training, supervision and oversight of Father McRae when he was stationed at armed forces bases within Canada?
- (4) What were the general duties, responsibilities and powers of Father McRae during his employment as a chaplain at armed forces bases within Canada?
- (5) What were the duties, responsibilities and powers of Father McRae in relation to minor children resident on armed forces bases within Canada during his employment as a chaplain?
- (6) Was Father McRae the subject of complaints of sexual misconduct involving minors who resided on armed forces bases during or prior to being stationed at CFB Namao?
- (7) If so, what steps were taken by Canada in response to such complaints?
- (8) What was the physical layout of the chapel and the chaplain’s residential accommodation at CFB Namao and previous base assignments?

[55] Certification of the foregoing common issues is not intended to foreclose future variations as pretrial steps are taken. If necessary, counsel may also seek clarification of these common issues and the opportunity to make further submissions during case management.

[56] The Applicant also seeks to have damages certified as a common issue. His proposed litigation plan proposes the following questions:

- 1) Can the alleged damages be estimated on a Class-wide aggregated basis?
- 2) What are the estimated Class-wide damages on an aggregated basis?
- 3) Are some or all of the Class Members entitled to recover damages for one or more of negligence breach of trust for breach of fiduciary duty?

[57] Section 30 of the *CPA* provides as follows:

30(1) The Court may make an order for an aggregate monetary award in respect of all or any part of a defendant’s liability to class members or subclass members and may give judgment accordingly if

- (a) monetary relief is claimed on behalf of some or all class members or subclass members,
  - (b) no questions of fact or law other than those relating to the assessment of monetary relief remain to be determined in order to establish the amount of the defendant's monetary liability, and
  - (c) the aggregate or a part of the defendant's liability to some or all class members or subclass members can, in the opinion of the Court, reasonably be determined without proof by individual class members or subclass members.
- (2) Before making an order under subsection (1), the Court is to provide the defendant with an opportunity to make submissions to the Court in respect of any matter touching on the proposed order, including, without limitation,
- (a) submissions that contest the merits or amount of an award under subsection (1), and
  - (b) submissions that individual proof of monetary relief is required due to the individual nature of the relief.

[58] I am prepared to certify the issues of whether the alleged damages can be estimated on a class-wide basis and what the estimated class-wide damages on an aggregated basis would be. It will be for the common issues judge to determine whether an order for an aggregate monetary award can or should be estimated, based on the evidence and submissions before them at the time. I will similarly certify the claim for punitive damages.

**(d) Preferable procedure**

[59] Section 5(1)(d) of the *CPA* provides that one of the conditions to be met for certification is whether a class proceeding would be the preferable procedure for the fair and efficient resolution of the common issues.

[60] I am satisfied that this condition has been met.

[61] The alleged sexual assaults on which this action is based happened approximately 45 years ago. They included two or more victims. How many of those victims will be willing or able to come forward at this time remains to be seen. The alleged tortfeasor died many years ago, and many if not all of those involved in the management of the armed forces bases at which he served will have long since retired and may also have died or be unable to testify due to health reasons. It follows that if this action was to proceed to trial, much of the evidence may be based on historical records.

[62] As a further complication, one of Father McRae's victims is alleged by the Applicant to have been a perpetrator or participant in sexual assaults on others while a young person. Having resolved his action against Father McRae, that person may be reluctant to provide evidence even though he may be uniquely able to provide critical information. Aside from the trauma of reliving his own experience, he may be concerned about his own potential civil or criminal liability.

[63] In the circumstances, a single class proceeding would be highly preferable. It is the best alternative for compiling a comprehensive historical and evidentiary record. It reduces the need for historical sexual assault victims to testify in multiple proceedings. And it encourages victims

who would otherwise remain hidden to seek access to justice, as they would not be alone in their pursuit.

[64] By focusing the action on the alleged misconduct of Father McRae, the benefits of a class proceeding can be achieved without inviting a broad ranging inquiry into systemic mismanagement of military facilities or operations. As discussed in *VLM*, if vicarious liability is found (or admitted), the issue of negligence becomes redundant: at para 31. This is especially so when the only defendant is the government employer. This also augurs in favour of a class proceeding to deal with common issues.

**(e) Is the Applicant a suitable representative plaintiff**

[65] Section 5(1)(e) of the *CPA* requires that there must be a representative plaintiff who:

- 1) will fairly and adequately represent the interests of the class,
- 2) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
- 3) does not have, in respect of the common issues, an interest that is in conflict with the interests of other prospective class members.

[66] Given my findings regarding common issues, the litigation plan presented by the Applicant will need to be revised and submitted back to the court for review and approval. I also agree with Canada that the litigation plan needs to be substantially revised, as it appears to have been borrowed from another case, among other deficiencies.

[67] I am nonetheless satisfied that the Applicant is an appropriate representative plaintiff. Mr. Bees has, for many years, pursued access to justice in respect of his claim of sexual abuse as a child. He appears to have suffered many years of torment and depression which he attributes to his childhood experience. He pursued the adequacy of the military police investigation into his direct and known abuser, PS, through to hearings before the military police complaints commission, without success.

[68] Mr. Bees has since agreed to take on the responsibility of a representative plaintiff in this action and confirmed in questioning his willingness to carry this action through to its conclusion. This is despite his intention to seek medical assistance in death, as the ultimate respite from his lifelong depression, after it becomes available for those whose underlying medical condition is a mental illness.. One can only hope that access to justice, however this action is resolved, will lead or assist Mr. Bees to find a different path.

[69] I do not consider that Mr. Bees' interest conflicts with those of other class members. Any potential conflict as between alleged victims of direct abuse by father McRae and those whose abuse was done with Father McRae's participation, facilitation or encouragement (as alleged by Mr. Bees) has been addressed through the modifications to the definition of class members as discussed earlier.

**Next Steps**

[70] To move this action along, I direct that counsel provide a revised litigation plan and a proposed certification order for my review, based on these reasons. If necessary, counsel may schedule a case management meeting to discuss the proposed plan and order.

Heard on the 4<sup>th</sup> day of September, 2024.

**Dated** at the City of Calgary, Alberta this 27<sup>th</sup> day of November, 2024.

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**R.A. Neufeld**  
**J.C.K.B.A.**

**Appearances:**

Clint Docken, KC and Husna Ali Bik (Student-at-law)  
for the Plaintiff

Robert Drummond and Dakota Vassberg  
for the Defendant