

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JEAN-MARIE DIXON

Plaintiff

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, and
ASSOCIATION OF LAW OFFICERS OF THE CROWN**

Defendants

AFFIDAVIT OF JEAN-MARIE DIXON

I, **Jean-Marie Dixon**, in the City of Toronto, in the Province of Ontario, AFFIRM AS FOLLOWS:

1. I have personal knowledge of the matters deposed in this affidavit. Where I make statements that are not within my personal knowledge, I identify the source of the information and belief, all of which I do believe to be true. Where I have not identified the source of my information, the information is within my personal knowledge.

OVERVIEW

2. I am a dark-skinned Black female — a racialized woman. I am 53 years old, a single parent, and have always been a sole support parent. I am the primary income provider for myself and my son (and our two dogs).

3. In 2002, I began my legal career with the Government of Ontario (Crown or Employer) with the Ontario Public Service (OPS), as an Articling Student at the Family Responsibility Office (FRO). In 2003, I was called to the Bar, and was hired as Crown Counsel, and continued working at the FRO. Over the last 20 years, due to individual and systemic anti-Black racism¹, I have worked as Crown Counsel in four different legal service branches. I am currently employed as Crown Counsel with the Ministry of the Attorney General (MAG), Civil Remedies for Illicit Activities Office (CRIA). I commenced working at CRIA in September 2011. I have no disciplinary record.

4. I am a member of the Association of Law Officers of the Crown (ALOC), a defendant in the herein civil proceeding. ALOC has retained the law firm, Goldblatt Partners LLP (Goldblatt) to represent ALOC and its members on all grievance matters. Goldblatt also represents ALOC on the herein civil proceeding.

5. As a dark-skinned Black female OPS employee and member of ALOC, I have been subjected to relentless racism, misogynoir, tortious conduct, discrimination, policing, malicious and false gossip, surveillance, discipline, suspension, threats, and gaslighting based on the intersectionality of my race, colour, ethnic origin, sex, and actual or perceived disability by the Crown and ALOC, and their employees, agents, servants, and representatives.² Examples of the abuse I have been subjected to and the damaging effects of these experiences on my personal and professional wellbeing are

¹ Attached as Schedule 'A' is a Glossary of Terms.

² Attached as Schedule 'B' is a non-exhaustive list of public servants who have acted ultra vires in his or her conduct towards me.

set out in the Statement of Claim issued on February 25, 2019, which commenced the herein civil proceeding.

6. Since around 2013, due to OPS staff and management subjecting me to anti-Black racism, white supremacy, discrimination, harassment, and tortious conduct in the workplace, I have needed to take costly lifesaving prescription medications; and for the last six years I have required costly psychotherapy treatment. The medications I am taking are not without negative side effects. For example, after taking one of my prescription medications for about five years, I learned through my Physician that it causes lung cancer.

7. On May 16, 2016, the Crown abruptly and publicly suspended me from the OPS *with pay* under the discipline and termination provisions of the *Public Services of Ontario Act (PSOA)*, in reprisal for me having raised my experiences of OPS staff and management being subjecting me to anti-Black racism, misogynoir, racial and racial abuse in the workplace, *pending* two separate and distinct management-initiated workplace policy investigations against me.

8. The Crown commenced the two investigations against me under its Workplace Discrimination and Harassment Prevention Policy (WDHP) and its Workplace Violence Prevention Policy (WVP) falsely indicating that I had “created a poisoned work environment by, among other things, using intimidating language, and unfairly accusing others of racist behaviour in response to routine work directions and requests from management and in exchanges with other were investigated.”

9. In May 2016, the Crown indicated that it had commenced a management-initiated WDHP investigation on my behalf relating to my raised experiences of OPS staff and management subjecting me to racial abuse.

10. In June 2021, the Crown released internally, two Third-Party Reports which detail the existence, prevalence, and severity of anti-Black racism in the OPS, and how the WDHP has been abusive to Black employees and ineffective in addressing anti-Black racism in the workplace. Notwithstanding, these two Reports and the outstanding WDHP and WVP Reports, in the fall of 2021, the Crown retained a lawyer to commence an WDHP investigation into my Twitter Account.

11. On August 16, 2018, the Crown unilaterally placed me on a sickness leave even though the Crown's two management-initiated WDHP investigations and the Crown's WVP management-initiated workplace investigation against me were still outstanding. Per the provisions of the two policies, these investigations against me, including final reports, were due by August 10, 2016.

12. I only received a finalized report in relation to the Crown's management-initiated WDHP investigation *against* me on April 28, 2019.

13. To date, I have not received from the Crown any draft or finalized report regarding the management-initiated WDHP investigation it purported to have commenced on my behalf.

14. To date, I have not received from the Crown any draft or finalized report regarding the management-initiated WVP investigation it commenced against me.

15. On April 11, 2019, the Crown terminated my pay and benefits, preventing me from obtaining lifesaving medications; prohibiting me from being able to meet my personal and financial obligations: mortgage, property taxes, utility bills, hygiene products, legal expenses, disbursements, medical treatment, food, clothing, pet care, and a safe/modern vehicle. Further, the Crown's actions against me have resulted in me having significant credit card and overdraft debt interest payments, and burdensome and overwhelming debt.

16. On June 24, 2019, the Crown temporarily reinstated my benefits allowing me to obtain my prescription medications. However, the Crown refused to reinstate my pay, despite being aware that I am a sole support parent and had no income or savings.

17. On September 13, 2019, I brought a motion for the reinstatement of my pay and benefits. The motion was before judge Paul Schabas, who denied my motion, despite the outstanding WHDP and WVP Reports, and my having been without any source of income for six months. In their written materials and orally, the Crown and its counsel, Lenczner Slaght LLP (Lenczner Slaght), submitted that the court should not order the Crown to reinstate my pay/benefits, as I had options available to me for the reinstatement of my income — one of which was to return to the workplace. Paul Schabas J.'s Endorsement dated September 23, 2019, reflects the Crown and Lenczner Slaght's assertions.

18. As a result of the Crown's historical and ongoing discriminatory, harassing, tortious, and punitive conduct towards me, I have had to withdraw equity from my home to finance legal and medical expenses that I have incurred in attempting to address my

experience of OPS staff and management subjecting me to anti-Black racism in the workplace.

19. As a result of the Crown's longstanding discriminatory, harassing, prejudicial, tortious, and vindictive conduct towards me, I have no savings, no accessible equity in my home, I am in receipt of long-term disability payments, which provide roughly 66 percent of the income I was receiving at the time I went on disability and has thus left me financially precarious. The effect of the loss of my pay has significantly impacted my psychological, financial, familial, social, and physical wellbeing, thereby, compounding the damaging effects of the anti-Black racism that the Crown and ALOC and their employees, members, servants, agents, and/or representatives subjected me to, as a Black OPS employee and ALOC member.

20. OPS's internal workplace policies and programs; the Collective Agreement between the OPS and ALOC; and labour and human rights laws and processes have been completely ineffective in addressing my (and other Black and racialized employees) highly traumatic workplace experiences of workplace abuse, and in fact have served to embolden and protect my abusers, the Crown and ALOC.

POISONED AND TOXIC WORKPLACE ENVIRONMENT

21. Since joining the OPS, staff and management have subjected me to relentless anti-Black racism; individual, systemic, and systematic racial discrimination and harassment; and tortious conduct based on the intersectionality of my race, colour, ethnicity, nationality, and sex.

22. Specifically, as a dark-skinned Black woman of African descent, I have been subjected to the following: anti-Black animus; macro and microaggressions; misogynoir; belittling; aggression; violence; racial profiling; racial discrimination; oppression, surveillance; policing; ridicule; silencing; career stagnation; racial harassment; marginalization; isolation; defamation; financial abuse; threats; false narratives about me premised on negative stereotypes and tropes about Black women/people, and gaslighting. These experiences have been damaging to my personal and professional wellbeing.

23. I commenced working at CRIA in September 2011, after the Crown placed me on a forced two-year suspension, in or around 2008, because I was no longer able to work directly with a support staff at the Family Responsibility Office (FRO), who engaged in continuous acts of anti-Black racism, white supremacy, racial discrimination, breach of my privacy, and racial harassment against me that were damaging to my personal and professional wellbeing. The Crown and ALOC were aware of the staff's misconduct towards me. In the case of a white female support staff, Carol Hagen (Hagen), who was tormenting me, the Crown and ALOC acknowledged that I was being subjected to a toxic and poisonous work environment; however, asserted that because Hagen wanted to work directly with me, and it was the support staff's/her right to do so, I was required to work directly with Hagen, unless I submitted a letter from a psychiatrist indicating otherwise.

24. I experienced racial discrimination and racial harassment at CRIA immediately — staff and management marginalized, isolated, and undermined me, and made feel unwelcomed. When I started at CRIA, there were two other racialized female counsel

working in the office. However, due to racial discrimination, by CRIA Management and staff, within two years, the racialized counsel left CRIA. I remained the only racialized lawyer at CRIA, until around August 2015, when Walter Ojok, a Black male junior flex counsel (Flex Counsel) joined CRIA on a short-term contract.

25. CRIA Management (Legal Director and Deputy Director) changed about eight times while I was working at CRIA. Although, I made my experiences of anti-Black racism, racial discrimination, and racial harassment known to CRIA's Directors, at no time did any of them intervene to protect me or to ensure that they and staff abided by internal workplace policies³, labour laws, the *Human Rights Code (Code)* or the *Charter of Rights and Freedoms (Charter)*.

26. In January 2016, I learned from Flex Counsel that acts of anti-Black racism, racial discrimination, and racial harassment against me were organized/orchestrated; that he had been warned that if he did not participate in this conduct against me, he would be subjected to the same treatment I was receiving; and that he had been instructed to *not* associate with me.

27. While I knew that since I started working at CRIA, I had been subjected to unwarranted macro and microaggressions⁴ (due to experiences of anti-Black racism in

³ Attached as Schedule 'C' to this Affidavit is copy of OPS workplace policies and directives.

⁴ For example: hostile and aggressive tones and facial/body language towards me; when I was speaking, I would be interrupted; staff were encouraged not to speak/be of assistance to me; gossiping in a manner that I could gather I was being talked about; sudden silence when I was walking by staff engaged in conversation, and then the resumption of conversation once I had passed them; marginalization; staff and management ensuring to make it public that they were having office discussions and gatherings that I was being excluded from; displeasure expressed over my involvement on committees; staff purposely engaging in disruptive behaviour outside my office; yelled at; sworn at by staff and Management; excessive scrutiny, condescension from management and staff; Management supporting staff not following my instructions, such as, on

the workplace, on several occasions, I was driven to tears, and broke down in front of my colleagues), I was scared and shocked to learn that the conduct of CRIA staff towards me was organized. I found this to be very threatening and traumatic. I was scared for my safety and wellbeing.

28. Not only did CRIA Management trivialize, ignore, and deny acts of discrimination and harassment against me brought to their attention by the Flex Counsel and/or myself, they also fostered and participated in such acts against me. Further, they then tried to find ways to turn my stories of victimization around to redirect blame towards me and created false characterizations and false narratives about me.

29. Tom Schneider (Schneider), CRIA's Legal Director, would immediately ambush and interrogate me about the most trifling of matters staff communicated to him about me, while refusing to address acts of racial discrimination and harassment against me.

30. CRIA's Legal Director would also ambush me about the most trivial of things based on staff "complaints," even when the matters were outside of my job responsibility.

31. Although CRIA's Legal Director had a history of ambushing me with trivial complaints of staff, he refused to address with staff their inappropriate, abusive, and damaging conduct towards me.

my court matters to file affidavits of service with the court and sidebar caselaw included in book of authorities.

32. Whenever I raised with CRIA Management my experiences anti-Black racism discrimination and harassment in the workplace, Management denied, trivialized, minimized, rationalized, gaslighted, or negated my *lived* negative experiences.

33. Whenever I raised with CRIA Management my experiences of anti-Black racism, discrimination, and harassment in the workplace, rather than addressing my toxic work environment or offering support, Management would respond towards me with apathy, anger, hostility, ambivalence, and gaslighting; and, in turn, falsely label me based on damaging, unwarranted, demeaning, discriminatory, harassing and negative anti-Black female stereotypes and tropes, resulting in a toxic, unsafe, and poisoned work environment: I have been systematically and strategically mischaracterized as large, violent, menacing, threatening, scary, abusive, difficult, rude, irrational, mentally ill, mad, dishonest, lazy, unfeminine, antagonistic, authoritarian, hostile, loud, argumentative, undisciplined, disturbing, uppity, angry, uncivil, disrespectful, inferior, untrustworthy, insubordinate, unreliable, aggressive, disrespectful, intimidating, unprofessional, outside the norms of appropriate behaviour etc.

34. The Crown and its employees, agents, servants, and representatives subjected me to anti-Black racism, racial abuse, racist comments and sentiments, mendacious gossip, undermining, surveillance, racial profiling, policing, belittling, condescension, berating, cursing, reproach, silencing, lambasting, warrantless search, disdain, disregard, defamation, and criminalization. I have been lied about, marginalized, ostracized, threatened, yelled at, over-scrutinized, assigned demeaning work, denied professional and educational opportunities, unwarrantedly disciplined, displaced, suspended, exiled, and expunged.

35. In April 2016 and on May 3, 2016, while working alone in one of CRIA's two boardrooms, I was accosted, verbally attacked, berated, harassed, and discriminated against on three separate occasions by Sara MacDonald (MacDonald), a white female junior counsel who was new to the office; and on one occasion by CRIA's Legal Director, Schneider, at MacDonald's behest. Notably, Schneider did not ask me what had taken place, instead, he immediately began to attack, berate, and criticize me in front of MacDonald.

36. I indicated to MacDonald and my Legal Director that their treatment of me was based on anti-Black racism and white privilege. I also once again expressed to my Legal Director that he does not treat me in the same manner that he treats my white colleagues; that he has been quick to chastise me for "perceived wrongdoings"; and that he has refused to take action against the discrimination and harassment I have experienced at CRIA that were brought to his attention by Flex Counsel and myself.

37. On April 29, 2016, I sent an email to Schneider regarding my poisoned work environment, and his fostering this toxicity by ignoring, trivializing, or participating in acts of racism against me.

Attached as **Exhibit "A"** is a copy of Jean-Marie Dixon's email to CRIA's Legal Director, Tom Schneider, dated April 29, 2016.

SUSPENSION FROM THE ONTARIO PUBLIC SERVICE

38. In reprisal for speaking out about the anti-Black racism that CRIA staff and management were subjecting me to, Schneider and MacDonald colluded with other staff and the acting Deputy Director, Miriam Young (Young) to bring a malicious,

unwarranted, and wanton WDHP Complaint and a WVP Complaint against me. Notably, I learned in September 2017, that one of CRIA's counsel, Amy Then, had organized an offsite meeting for all staff — which they did not tell or invite the Flex Counsel (a Black lawyer) to — for the purpose of having me, the target of racial abuse, removed from CRIA. Flex Counsel told me, and I verily believe, that about two days after the offsite staff meeting, arranged by Amy Then, the Crown suspended me from the OPS.

Attached as **Exhibit “B”** is a copy of the Legal Director, Tom Schneider's email to the Portfolio Director, Julia Evans, dated April 29, 2016.

Attached as **Exhibit “C”** is copy of an email from the Deputy Director, Miriam Young, to the Portfolio Director, Julia Evans dated May 3, 2016.

39. On May 4, 2016, I received an email from CRIA's Legal Director, Schneider, denying my experience of racial discrimination and racial harassment in the workplace, and falsely claiming that he was surprised and saddened by my allegations.

Attached as **Exhibit “D”** is copy of CRIA's Legal Director, Tom Schneider's email Jean-Marie Dixon, dated May 4, 2016.

40. On May 12, 2016, in retaliation and in reprisal for speaking out about the anti-Black racism I was experiencing in the workplace, particularly, my recent experience of being accosted, attacked, and berated while working in CRIA's boardrooms by the Legal Director, Schneider and MacDonald, CRIA's Portfolio Director, Julia Evans, (MAG Management), commenced an unwarranted and wanton WDHP and WVP investigation against me based on false, discriminatory, and 'unclarified' allegations. I received oral and written notice of the two management-initiated investigations against me from WDHP Advisor, Christine Hobkinson.

Attached as **Exhibit “E”** is a copy of WDHP Advisor, Christine Hobkinson's email to Jean-Marie Dixon, dated May 12, 2016.

Attached as **“Exhibit “F”** are copies of WDHP Advisor, Christine Hobkinson’s emails to Jean-Marie Dixon, dated May 27, 2016, June 2, 2016, June 8, 2016, and June 10, 2016, indicating that the Crown suspended her based on unclarified information.

41. On May 16, 2016, in retaliation and in reprisal for speaking out about the anti-Black racism I was being subjected to by CRIA Management and staff, Julia Evans, a white female Crown Portfolio Director, abruptly, publicly, and without notice, suspended me, *with pay*, under the discipline and termination provisions of the *PSOA pending the conclusion* of a management-initiated WDHP investigation and a management-initiated WVP investigation against me. These two Crown management-initiated investigations against me were commenced based on false, discriminatory, wanton and ‘unclarified’ allegations made by CRIA management and staff against me.

42. As a result, I was immediately barred from being at CRIA; required to return my BlackBerry and CRIA Access Card/FOB to the Portfolio Director; escorted to my office in the presence of CRIA staff; physically surveilled by the Deputy Director as I retrieved some of my belongings and not allowed to be left alone in *my own office*; barred from accessing my computer; removed from all CRIA and OPS databases; disconnected from all phone services; escorted in front of staff from my office, CRIA and the building where CRIA is located; barred from attending CRIA and all MAG workplaces/buildings; and prohibited from attending continuing legal education courses, workplace seminars, and ALOC’s Annual Conference held in November of each year. This was exceedingly humiliating and damaging.

Attached as **Exhibit “G”** is copy of the Portfolio Director, Julia Evan’s *Notice of Suspension with Pay Pending Investigation* letter to Jean-Marie Dixon dated May 16, 2016.

Attached as **Exhibit “H”** is copy of the subsequent *Extension of Suspension with Pay Pending Investigation* letters to Jean-Marie Dixon.

43. On May 20, 2016, and June 8, 2016, respectively, I wrote to the WDHP Advisor, and CRIA’s Portfolio Director, seeking answers about my and Flex Counsel’s complaints regarding my experience of anti-Black racism in the workplace and the Management-initiated investigations.

Attached as **Exhibit “I”** is a copy of Jean-Marie Dixon’s emails/letters to the WDHP Advisor, Christine Hopkins and Portfolio Director, Julia Evans, dated respectively May 20, 2016 and June 8, 2016.

44. On June 13, 2016, the Portfolio Director, wrote to me, stating that based on allegations *recently* brought to Management’s attention, it decided to *exercise its authority* to remove me from the workplace *pending the investigations*; reiterated that the suspension is with *full pay* and is *not disciplinary* in nature; denied me access to my office, computer, and dockets; and prohibited me from attending the workplace.

Attached as **Exhibit “J”** is copy of the Portfolio Director, Julia Evan’s *Response Letter* to Jean-Marie Dixon dated June 13, 2016.

GRIEVANCES AND MANAGEMENT’S STATEMENT OF ALLEGATIONS

45. On June 14, 2016, ALOC filed the first of three Grievances on my behalf, and requested “copies of any and all documentation that the Employer relies on to support its position in this matter, or in response to this grievance.” The First Grievance, despite my expressed wishes and concerns, *only* addresses the *procedural* way the Crown suspended from the OPS — it does not address any *substantive issues* relating to my experiences of anti-Black racism, racial discrimination, racial harassment, and tortious conduct in the workplace. To date, despite the financial, psychological, professional,

physical, familial, and social damage that I have experienced because of the substantive racial/gender abuse OPS staff and management have subjected me to, ALOC has refused to bring a grievance regarding same.

Attached as **Exhibit “K”** is copy of the 1st Grievance dated June 13, 2016.

46. On November 10, 2016, the Crown served management’s *Statement of Allegations* against me. Documents that were said to be included were missing. On November 14, 2016, the Crown emailed ALOC indicating that Management is the complainant in this matter; confirmed that the *Statement of Allegations* contains all of the allegations against me; and provided the missing documentation: (1) The Toronto Observer article, entitled, “*Scarborough residents cite racist experiences at anti-racism forum*” by James Dalgarno (dated October 7th and 8th, 2016); (2) Assistant Deputy Attorney General (ADAG) Mallia Wilson’s email of May 4th to CLOC Legal Director Troy Harrison and Portfolio Director Julia Evans asking them to action Dixon’s email to ADAG Wilson; (3) ADAG Wilson’s email of May 6th to Portfolio Director Evans and CLOC Legal Director Harrison, forwarding an email chain between Dixon and WDHP Advisor Christine Hobkinson. On November 14, 2016, the Crown emailed ALOC asserting that the Complainant in this matter is Management and confirmed that the *Statement of Allegations* contains the allegations against me.

Attached as **Exhibit “L”** is a copy of Notice Letter - Management’s *Statement of Allegations* against Jean-Marie Dixon dated November 10, 2016.

Attached as **Exhibit “M”** is a copy of the Crown’s email to ALOC confirming that the Notice Letter contains the allegations against Jean-Marie Dixon dated November 14, 2016.

Attached as **Exhibit “N”** is a copy of the missing documents received from the Crown on November 14, 2016.

47. On November 14, 2016, ALOC filed a Second Grievance with the Crown for breaching its obligations to me under the Collective Agreement and applicable legislation; and requested all documentation that the Crown relied upon in support of its position, and in response to the Grievance. ALOC also provided the Crown with my *procedural* WDHP Complaint against the OPS Management, relating to the way in which I was suspended from the OPS. Like the First Grievance, and against my expressed wishes and concerns, the Second Grievance filed by ALOC also does not address any substantive issues relating to my experiences of being subjected to anti-Black racism, misogynoir, racial discrimination and harassment, and tortious conduct.

Attached as **Exhibit “O”** is copy of the 2nd Grievance dated November 14, 2016.

Attached as **Exhibit “P”** is a copy of Jean-Marie Dixon’s WDHP Complaint regarding the way the Crown suspended her from the OPS dated November 8, 2016.

Attached as **Exhibit “Q”** is a copy of Jean-Marie Dixon’s Response to Management’s Statement of Allegations against her dated January 21, 2017.

48. On February 14, 2017, ALOC submitted a Third Grievance, regarding the Crown's denial to approve my attendance for an accredited CPD human rights course.

Attached as **Exhibit “R”** is copy of the 3rd Grievance dated February 14, 2017.

INVESTIGATION REPORTS

49. Per the provisions of the WDHP and WVP, both the management-initiated WDHP and the management-initiated WVP investigations against me, as well as the management-initiated WDHP investigation were *all* to have been completed, including final reports, by August 10, 2016, at the latest. However, I only received Management’s *Statement of Allegations* against me in November 2016.

50. On June 28, 2018, over two years after the management-initiated WDHP investigations for and against me, and the management-initiated WVP investigation against me were commenced, and more than a year after my application was filed with the Human Rights Tribunal of Ontario (HRTO) was filed in May 2017, I received a *draft* WDHP Report regarding Management's Complaints against me, and a *draft* WDHP Report regarding my procedural WDHP Complaint. The two WDHP Reports were prepared by McCarthy Tetrault (McCarthy), the law firm that the Crown's then recently hired, DAG, Paul Boniferro, had just been a law partner.

Attached as **Exhibit "S"** is a copy of the WDHP Report drafted by McCarthy Tetrault relating to the Crown's WDHP Complaint against Jean-Marie Dixon dated March 23, 2018, and some the Crown's Witnesses' Statements.

51. The WDHP Reports rely on anti-Black racist sentiments, anti-Black bias, misogynoir, anti-Black stereotypes and tropes, white privilege, white supremacy, and white fragility in arriving at damaging, incongruent, inconsistent, spurious, mendacious, and racist conclusions. The Reports contain factual errors made by the investigator(s), misstatements of the facts as relayed to the investigator(s); are lacking in legal analysis, acumen, and an intersectional framework; and presents as being arbitrary, unbalanced, discriminatory, and biased.

52. The WDHP Reports are written for the benefit and protection of the Crown, and those who engaged in acts of anti-Black racism, misogynoir, harassment, and discrimination against me.

53. On February 26, 2019, based on my own advocacy, I received part of the investigation file. The file reveals that the Investigators — McCarthy and Brainsell

Consulting Inc. (Brainsell) — were not neutral; that the Crown was aware of biases in the investigation; and that facts/evidence highlighting the racial abuse that OPS staff and management subjected me to were suppressed/hidden by the Investigator(s).

Attached as **Exhibit “T”** is a copy of some of the documents in the WDHP investigation demonstrating the biases of McCarthy and Brainsell.

54. On April 28, 2019, almost three years after the management-initiated WDHP investigation against me began, and two months after the herein civil action commenced, I received from the Crown’s ADAG Michel Helie, the *final* WDHP Report regarding Management’s Complaints against me and a copy of the *final* WDHP Report regarding my WDHP Complaint about the *procedural* manner in which I had been suspended. I have not reviewed the “final” WDHP Reports, due to the trauma I experienced in reviewing the two draft Reports that took months for me to complete, and which have been damaging to my psychological and physical health.

Attached as **Exhibit “U”** is a copy of ADAG Michel Helie’s Cover Letters dated April 26, 2019, that accompanied the August 13, 2018 final WDHP Reports prepared by McCarthy regarding the management-initiated WDHP investigation against Jean-Marie Dixon and the WDHP Report regarding Jean-Marie Dixon’s WDHP Complaint relating to the way the Crown suspended her from the OPS.

55. I received the finalized WDHP Reports from the Crown, *after* my Statement of Claim had been issued in February 2019.

56. To date, although the Crown indicated on several times that a management-initiated WVP investigation had been commenced against me, and despite my repeated requests that the resulting WVP Reports be provided to me, I have not received any WVP Report relating to the Crown’s WVP investigation against me.

HUMAN RIGHTS TRIBUNAL APPLICATION

57. On or around May 17, 2017, my then lawyer filed an application with the HRTO on my behalf. The HRTO is holding my application in abeyance pending the conclusion of the three Grievances. However, the Grievances only speak to the Crown's denial of my attending a Human Rights Course and the manner in way the Crown suspended me — and *do not* address my substantive experiences of OPS staff and management subjecting me to anti-Black racism, racial discrimination, and tortious conduct in the OPS.

Attached as **Exhibit "V"** is a copy Jean-Marie's Application filed with the Human Rights Tribunal of Ontario on or around May 17, 2017.

58. Since the Crown suspended the OPS, the Crown and ALOC have continued to subject me to anti-Black racism, racial discrimination, and tortious conduct.

59. Since the Crown suspended on May 16, 2016, I have learned of other Black women who the OPS has suspended or fired for raising their experiences of being subjected to anti-Black racism in the OPS.

REINSTATEMENT TO THE ONTARIO PUBLIC SERVICE

60. In June 2017, as I remained out of the workplace, without any movement on the two management-initiated investigations against me — in breach of the provisions of the WDHP and WVP provisions — ALOC advised the Crown that it was bringing a motion for my reinstatement to the OPS.

61. An arbitrator heard the motion for my reinstatement to the OPS on September 6, 2017. The Crown opposed my reinstatement right up until the day of the hearing. The

motion was resolved via Minutes of Settlement executed by me, ALOC, and the Crown. My reinstatement to the OPS, permitted me to attend Ministry locations, and gave me access to certain government databases and educational opportunities, such as ALOC's Annual Conference, which I attended in November 2017; but it did not end my displacement from the OPS.

Attached as **Exhibit "W"** is a copy of Walter Ojok's Affidavit for Jean-Marie Dixon's Reinstatement to the OPS sworn August 31, 2017.

Attached as **Exhibit "X"** is a copy of the Minutes of Settlement executed September 2017.

62. Immediately after the execution of the Minutes of Settlement, the Crown proceeded to break almost every one of its terms, requiring new awards to be made; frustrating my physical return to the OPS; and severely impacting my physical and psychological wellbeing, leading to my current disability and continued displacement from the workplace.

Attached as **Exhibit "Y"** is a copy of Arbitrator Jasbir Parmar's Awards dated October 24, 2017 and November 9, 2017.

ALOC'S AND CROWN'S REFUSAL TO ADVANCE THE GRIEVANCES

63. ALOC and the Crown, control grievance proceedings for Crown lawyers, and have engaged in anti-Black racism, misogynoir, tortious conduct, and racial discrimination against me, and accordingly they are named as defendants in the herein civil action, commenced via the Statement of Claim issued by this Court on February 25, 2019.

64. Although the Crown suspended on May 16, 2016, almost six-years ago, against my wishes, the three Grievances filed by ALOC remain outstanding.

65. Despite the voluminous materials; the Crown's large number of "witnesses"⁵ on the management-initiated WDHP Complaint against me; in addition, to the "respondents" McCarthy identified⁶ regarding my WDHP Complaint regarding the manner in which the Crown suspended me from the workplace, the large number of "witnesses", including four of the witnesses already noted, along with six other OPS employees⁷; the longstanding anti-Black racism I have been subjected to; and the OPS having deemed my WDHP matter as being "complex" — set my three Grievances down for *only four* days of hearing, in May 2019.

66. I am not a party to the Collective Agreement between the Crown and ALOC.

67. I am a non-party to the Grievances brought by ALOC on my behalf.

68. I do not have standing to file a grievance on my own behalf.

69. I do not have standing to progress the outstanding Grievances.

70. I do not have standing to determine the scope of any grievance brought by ALOC on my behalf.

71. I do not have standing to speak or make submissions on my own behalf at any hearing of my Grievances.

⁵ Rosalyn Train, Miriam Young, Tom Schneider, Julia Evans, Amy Then, Sara MacDonald, Laurie Pietras, Gary Valiquette, Walter Ojok, Rosanna Francis, Lisa Will, Jennifer Malabar, Dina Chantzis

⁶ Some erroneously

⁷ Miriam Young, Tom Schneider, Julia Evans, Sara MacDonald, Krista Jones, Sona Advani, Jane Price, Jennifer Richards

72. ALOC has retained Goldblatt to “represent” me on the Grievances and to represent ALOC against me on my civil lawsuit. Goldblatt lawyer and partner, Marisa Pollock has attended at each step of the Grievances. Throughout, Pollock has demonstrated a lack of expertise in anti-Black racism, misogynoir, intersectionality, anti-racism, white privilege, and human rights law and jurisprudence. Despite being a labour and human rights lawyer for decades, Pollock expressed to me that she had never heard of the term “white privilege”, Peggy MacIntosh, or her seminal article, *The Invisible Knapsack* — inexcusable and harmful to me, as one of the things I was suspended for was being “overheard” in my office, using the term, white-privilege.

73. Further, Pollock has been insensitive, abusive, callous, immature, and disengaged regarding me, my case, and my lived experiences of being subjected to anti-Black racism. Pollock herself has harmfully and deliberately engaged in “Karen” tactics that are informed by anti-Black and white supremacist sentiments — even going as far as to express that I would physically harm her, and to run to the Grievance Arbitrator begging for his assistance, as if I had harmed her.

74. To date, ALOC has refused to proceed with my three outstanding Grievances.

75. To date, ALOC has refused to amend the Grievances or to bring a new Grievance to address/include the substantive anti-Black racism, misogynoir, racial discrimination, and tortious conduct I have been subjected to as a Black female lawyer working for the Crown and as a member of ALOC.

76. To date, the Crown has refused to proceed with my three outstanding Grievances.

77. To date, the Crown and ALOC have refused address anti-Black racism, misogynoir, racial discrimination, and tortious conduct I have been subjected to as a Black female lawyer working for the Crown and as a member of ALOC.

78. I am not a party to the Grievance proceedings, and the Crown, ALOC and the Arbitrator have ignored/denied my requests for standing and needed relief.

Attached as **Exhibit “Z”** is a copy of Jean-Marie Dixon’s requested relief requested during the Grievances’ proceeding in May 2019.

Attached as **Exhibit “AA”** is a copy emails amongst Jean Marie Dixon, ALOC, Goldblatt, the Crown, and the Arbitrator regarding the Grievances’ proceeding.

Attached as **Exhibit “BB”** is a copy of some emails amongst Jean-Marie Dixon, ALOC, and the Crown regarding outstanding disclosure, required amendments to her Grievances and proceeding with her Grievances.

79. The Crown and ALOC’s refusal to expediently proceed with the outstanding Grievances has severely and negatively affected my psychological, financial, professional, familial, social, and physical wellbeing.

80. The Crown and ALOC’s refusal to treat seriously the anti-Black racism/racial violence that they and their employees/members, servants, and representatives has severely and negatively affected my psychological, financial, professional, familial, social, and physical wellbeing.

Slavery and Anti-Black Racism in Canada

81. As a result of my experiences, education, and review of social-science research, I am aware that anti-Black racism in Canada can be traced back to the Transatlantic Slave Trade that began in Nova Scotia in the early 1600s. This period details a brutal history and experience of enslavement, racial segregation, and colonization of Black

people of African descent, who white people targeted for various forms of exploitation and violence. To this day, Canadian society treats Black people as if we are less human, less sensitive, less intelligent, less deserving, less important, and more suited to withstanding emotional and physical pain than white people.

82. I am aware that embedded in historically and current hegemonic ideologies are perceptions that portray Black people as a cheap and an expendable labour force. These ideologies perpetuate oppressive stereotypes about Black people, and foster internalized racism that can be as destructive, if not more, than external forms of racial oppression.

83. I am aware that while the exclusion of Black people was overt and standard practice in the sixteenth to eighteenth centuries, salient exclusionary practices in social, economic, and political spheres exist to date and continue to reinforce the historical oppression and marginalization of Black people in Canada.

84. I am aware that Canadian institutions have embedded policies and practices that reflect and reinforce the negative beliefs, attitudes, prejudices, stereotyping, and discrimination directed at people of African descent.

85. I am aware that Black people in Canada experience anti-Black racism and racial oppression as a lack of opportunity; poor health and mental health outcomes; educational streaming; higher rates of precarious employment and unemployment; poverty; surveillance; policing; racial profiling; and overrepresentation in the criminal justice, mental health, and child welfare systems.

86. I am aware that while anti-Black racism is not new to Canada, it is now obscured. Since the abolition of slavery in 1834, anti-Black racism in Canada has been continually reconfigured to adhere to Canada's national myth of racial tolerance.

87. I am aware that in Canada, despite the abolition of slavery 188 years ago, Black people continue to experience racism.

88. I am aware that most Canadians are unaware that slavery and segregation existed here, long before Canada existed as a country.

89. I am aware that the obscuring of anti-Black racism from public view makes it harder to address and eliminate, and compounds the mental, physical, psychological, and financial harms suffered by Black people in Canada.

90. I am aware that in 2016, the United Nations Working Group of Experts on People of African Descent (the Working Group) identified concerns with institutional racism in Canada, and pointed to Canada's history of enslavement, racial segregation, and marginalization as the roots of anti-Black racism in Canada.

91. I am aware that the Working Group urged Canada to move beyond mere understanding and research, and to develop concrete initiatives to eliminate anti-Black racism in Canada.

Anti-Black Racism and Racial Inequities in the OPS

92. I am aware based on my lived experiences, communication with current and past OPS employees; articles; townhall meetings; reports; consultations; studies; surveys that individual and systemic racial abuse, discrimination, and harassment against Code

protect groups have been longstanding and pervasive issues in the OPS, including within the MAG.

93. I am aware based on my lived experiences, common sense, and education that the culture of the OPS and ALOC reflects Canada's history of the enslavement of Black people, the forced assimilation of Indigenous people, and colonization.

94. I am aware that both the Crown and ALOC are aware that internal workplace systems and processes, such as the WDHP; and external human rights and labour systems and processes, such as the HRTO and Arbitration have been ineffective in addressing anti-Black racism, anti-Black bias, racial discrimination, racial harassment, and racial harassment in the OPS.

95. I am aware that the OPS and ALOC have heard directly from Black racialized employees/members, through various formats, including at the Black Ontario Public Service Employees Network (BOPSers) Annual Town Hall Meetings that anti-Black racism is prevalent in the OPS.

96. I am aware that the Crown and ALOC are aware that grievances and the WDHP has been woefully ineffective in addressing discrimination and harassment in the OPS, particularly anti-Black racism.

97. I am aware that in June 2012, BOPSers made a presentation to the then Deputy Minister, Government Services and Associate Secretary of the Cabinet, entitled *Addressing Anti-Black Discrimination in the OPS*. The presentation highlighted that **70 percent of Black employees who reported their experience of discrimination in**

the OPS indicated no satisfaction with the outcome, and that *only* 13 percent reported a satisfactory outcome.

98. I am aware that in November 2015, the Crown released the *OPS Anti-Racism Action Plan* (Action Plan). The Action Plan concluded that: Aboriginal, Black, South Asian, and visible minority employees reported discrimination and harassment at rates higher than other OPS employees; in the two years before the Action Plan, 22% of all Black OPS employees experienced discrimination in the workplace, higher than all other visible minority OPS employees; even though Black workers are 4% of Ontario labour force and 4% of OPS employees are Black, only 2% of senior management are Black; and acknowledged that there are systemic racism barriers in hiring, promotions, assignments, and compensation that prevent OPS employees from reaching their full potential.

99. I am aware that despite historical and ongoing outreach efforts of Black and racialized employees (and our white supporters) to the Ontario government and to our respective unions/associations (including ALOC), countless research reports and surveys, townhall meetings, investigations, grievances, human rights applications, and the existence of various internal and external systems and processes, Black and racialized employees, particularly Black women, continue to be subjected to individual, systemic, and institutional racial abuse, discrimination, and harassment in the OPS.

100. I am aware, based on my own firsthand experiences, discussions with current and former OPS employees, a review of submissions made to the Employer and Senior Management, employee surveys, Grievance Settlement Board decisions, and various

reports that the WDHP is not effective in addressing individual and systemic discrimination and harassment in the workplace experienced by racialized employees. Indeed, OPS staff and management utilize the WDHP to penalize and terrorize racialized employees, particularly Black women, who raise with their colleagues and/or Management issues of racism in the workplace.

101. I am aware that Black OPS employees have expressed to the Employer, through various formats, including at the BOPSers⁸ Annual Town Hall Meetings, that anti-Black racism is prevalent in the OPS, with damaging consequences for its victims.⁹

102. I am aware that in September 2016, when the OPS replaced the WDHP with the Respectful Workplace Policy (RWP), they did not make any substantive changes to the discrimination and harassment provisions.

103. I am aware that AMPACEO, a bargaining association representing Ontario Professional Employees, has also expressed its concern to the Employer “over the large discrepancy between the goals of the WDHP policy and the actual practices in the workplace.”¹⁰

104. I am aware that in July 2015, AMAPCEO presented the Employer with a report entitled, *AMAPCEO Recommendations on the OPS WDHP Policy and Program*. The report set out a series of recommendations, such as the need for more detailed and

⁸ BOPSers: Black Ontario Public Service Employees Network.

⁹ BOPSers Documents - see Schedule 'D' attached to this Affidavit.

¹⁰ AMAPCEO Recommendations on the OPS Workplace Discrimination & Harassment Prevention Policy & Program, online: AMAPCEO, https://amapceo.on.ca/system/files/AMAPCEO_WDHP_Review.pdf.

specialized WDHP understanding among managers; the need for greater transparency surrounding the WDHP investigation process; and employees' fear of reprisal from managers or coworkers upon filing a WDHP complaint.¹¹

105. I am also aware that Steve Orsini, a former Head of the OPS and Secretary of the Cabinet (SOC) and Patrick Monahan, a former DAG, both publicly acknowledged that the WDHP does not work, and is ineffective in addressing discrimination against Black and other racialized employees. Despite this knowledge, neither of them took steps to protect me from anti-Black racism in their workplace.

106. I am aware that while fostering, participating in, and denying my experiences of anti-Black racism, racial discrimination, and racial harassment in the OPS, the Crown has no problem quoting me — in their report, entitled, *A Better Way Forward - Ontario's 3-Year Anti-Racism Strategic Plan* — not only is this conduct audacious, but it is also provoking, and demeaning.

107. I am aware that on January 18, 2018, Black women met with Michael Coteau, the former Minister (under the Liberal government) responsible for the Anti-Racism Directorate (ARD), and Steven Davidson, the then Assistant SOC, to discuss anti-Black racism, racial discrimination, and racial harassment in the OPS against Black women. I am aware that because of this meeting, the OPS instituted a moratorium on the suspension and firing of racialized employees, which the OPS secretly lifted six-months later. I am aware that the meeting resulted in the hiring of an "Independent" External Reviewer to assess WDHP cases characterized by the Crown as being "complex."

¹¹ Ibid.

Attached as **Exhibit “CC”** is a copy of SOC Steve Orsini’s memorandum regarding the moratorium dated January 19, 2018.

108. I am aware that in or around March 2018, the Crown obtained Arleen Huggins to conduct a review of “complex” WDHP cases; that she met with OPS employees associated with WDHP complaints; reviewed sample interview scenarios the Employer provides to candidates applying to be an WDHP External Investigator; and made recommendations based on her findings. I am aware that Arleen Huggins’s completed her report (Huggins Report) on or around June 6, 2019.

109. I am aware that the OPS published the Huggins Report on November 23, 2018. I am aware that the Huggins’s Report reveals that:

- (a) There is a high degree of emotional trauma associated with WDHP process itself, as well as the complaint issues.
- (b) Several of the participants expressed that the WDHP process did not provide them with any support whatsoever for the emotional trauma they were experiencing due to the nature of the issues raised in the complaint and the delays and stress caused by the process.
- (c) Sample cases provided to External Investigators for their written response appear to be rather simplistic and straight forward and do not capture the legal and factual complexity of an anti-Black racism complaint with underlying systemic issues, which appears to be the nature of most of the race-based complaints being filed with the WDHP Program.
- (d) There is a lack of preparation and inconsistent practices by investigators, lack of corporate requirements for investigators to have knowledge of complex racial discrimination concepts, a lack of thorough investigation

before reaching a conclusion, and a disparity of knowledge among WDHP Advisors.

- (e) Most of the participants felt that the WDHP process was not accountable.
- (f) The Human Resources Management Directive lacks enforcement provisions for a failure of Management to adhere to its responsibilities.

110. Further, I am aware that the Huggins's Report recommends that:

- (a) WDHP Advisors be required to undertake specific anti-racism/anti-Black racism, unconscious bias/anti-Black bias, intersectionality and cultural sensitivity training, and such training should be updated at least every 3 years.
- (b) Race-based complaints should be dealt with by specialized teams of WDHP advisors, specifically trained on the provisions of the Policy on Preventing Barriers to Employment and in identifying and articulating:
 - i. direct and indirect forms of racial discrimination; and
 - ii. systemic discrimination based on race.
- (c) Collecting desegregated data on WDHP complainants and respondents which critically looks at the particulars of the systemic issues giving rise to the complaints, based on the specific racial group in issue. For instance, many of the Black complainant participants reported experiences of marginalization, ostracism, exclusion, reprisals and the diminishing of their qualifications, knowledge, expertise and experience.

Attached as **Exhibit "DD"** is a copy of Arleen Huggins's Report completed on June 6, 2018 and published on November 23, 2018.

111. I am aware that to date, the Crown has not addressed the systemic problems and recommendations regarding to the WDHP/RWP as it relates to Black women/people, detailed in the Huggins Report; and that the Crown continues to use this policy/program to harass, intimidate, silence, abuse, and punish Black and racialized employees who raise anti-Black racism, racial discrimination, or racial harassment in the OPS.

112. In 2020, in my support of a Black female OPS employee whose colleague and manager had subjected her to anti-Black racism, I heard directly from the Crown's WDHP/RWP Advisor on her case, and verily believe, that the Crown had not implemented any anti-Black racism training for WDHP Advisors.

113. I am aware based on my lived experiences, communication with current and past OPS employees; articles; townhall meetings; reports, including the Huggins Report, and the two third-party reports released in 2021, entitled, *Third Party-Review – Anti-Black Racism Final Report* and *Ontario Public Service Third Party Review of Inclusive Workplace Policies* that anti-Black racism, anti-Black bias, racial discrimination, racial harassment, racial inequity, and white supremacy/privilege are pervasive and entrenched within the OPS, negatively impacting the professional and personal wellbeing of myself, Black women, and other racialized employees.

114. I am aware that both the Crown and ALOC remain ambivalent and reckless regarding racism in the OPS, especially, anti-Black racism. For example, on October 8, 2021, in keeping with the Crown's longstanding use of the WDHP/RWP to abuse Black female employees, I received an email with an accompanying letter from ADAG Michel Helie, dated September 29, 2021 — despite not having addressed the longstanding

anti-Black racism I have been subjected to — indicating that the Crown had retained Faisal Bhabha of Ethical Associates Inc. to investigate my Twitter Account under the WDHP/RWP, the *Occupational Health and Safety Act*, and the Collective Agreement; and that the Crown anticipates Faisal Bhabha would attempt to contact me “in the course of his investigation to ensure [I] have had an opportunity to fully respond before a final report is issued.”

Attached as **Exhibit “EE”** is a copy of ADAG Michel Helie’s letter and email regarding the Crown’s WDHP/RWP investigation of Jean-Marie Dixon’s Twitter Account, respectively dated September 29, 2021, and October 8, 2021.

115. On October 14, 2021, I sent an email to Michele DiEmanuele, the OPS’s current SOC, about the Crown’s continued anti-Black racism against me; the investigation of my Twitter Account, and the Crown’s failure to remove ADAG Michel Helie, whom I have identified as one of my abusers, from my matters. To date, I have not received a response.

Attached as **Exhibit “FF”** is a copy of the Jean-Marie Dixon’s email to SOC Michele DiEmanuele regarding the Crown’s WDHP/RWP investigation of her Twitter Account dated October 14 2021.

116. On October 18, 2021, I forwarded a copy of ADAG Michel Helie’s correspondence regarding the Crown’s WDHP/RVP investigation of my Twitter Account and requested that ALOC submit a grievance on my behalf; and on October 22, 2021, I received an ambivalent, unsupportive, and unsatisfactory response back from ALOC.

Attached as **Exhibit “GG”** is a copy of Jean-Marie Dixon’s email to ALOC about the Crown’s WDHP/RWP Twitter Account investigation, dated October 18, 2021.

Attached as **Exhibit “HH”** is a copy of ALOC’s email to Jean-Marie Dixon about the Crown’s WDHP/RWP Twitter Account investigation dated, October 22, 2021.

117. On January 31, 2022 — just one day prior to the commencement of Black History Month — I received an email and three-page letter of even date, from the Crown’s “independent” Investigator, Faisal Bhabha. In his letter, Faisal Bhabha, indicated, “As you know, your employer is undertaking an external Investigation into a management-initiated Complaint naming you as the Respondent. The allegations pertain to alleged harassment, within the meaning of [the] RWP... I would like to schedule an online interview in February 2022 to discuss your response to the allegations.”

Attached as **Exhibit “II”** is a copy of Faisal Bhabha’s email and letter to Jean-Marie Dixon regarding the Crown’s WDHP/RWP investigation into her Twitter Account dated January 31, 2022.

118. On February 2, 2022, I forwarded Faisal Bhabha’s January 31st email and letter to ALOC, with an accompanying email, requesting that ALOC forthwith bring a grievance on my behalf, and setting out some of the negative differential treatment that I as a Black woman/female lawyer have experienced at the hands of the Crown and ALOC, and their respective legal representatives. As well, I noted that “the Employer, its lawyer Lenczner Slaght *and* ALOC and its lawyer Goldblatt were not concerned about the damage to my professional, psychological, financial, social, and familial wellbeing of me receiving the racist, supremacist, filthy, mendacious, and defamatory WDHP Reports or them being filed in Court on my motion for the reinstatement of my pay and benefits.” Further, I indicated that the Crown’s conduct in retaining Faisal Bhabha to investigate my Twitter Account is “highly *inappropriate* as my matter is currently before the Court and other adjudicative bodies. To quote...Tom Curry, when I wrote to ALOC and the SOC regarding Amy Then being allowed to sit on panels.”

Attached as **Exhibit “JJ”** is a copy of Jean-Marie Dixon’s email to ALOC about Faisal Bhabha’s January 31st email/letter to her dated February 2, 2022.

119. On February 14, 2022, I received yet another unwelcomed and harassing email from Faisal Bhabha regarding my Twitter Account, indicating: “I wish to emphasize that the fact of the investigation is beyond my control or yours. What I can do is offer you a chance to have your voice heard in the process...I’m genuinely interested in hearing your prospective.”

Attached as **Exhibit “KK”** is a copy of Faisal Bhabha’s email to Jean-Marie Dixon about the WDHP/RVP investigation against her dated February 14, 2022.

120. On February 14, 2022, I sent an email to ALOC, stating that I had received another email from Faisal Bhabha, and that this “conduct is harassing, inappropriate, unethical, and unprofessional as the very issues he wishes to pontificate on are before the Court and other adjudicative bodies.” Additionally, I asked ALOC to confirm whether Faisal Bhabha is related to or is in a relationship with a Goldblatt lawyer, or any individual whom I have identified as an abuser, including, but not limited to Lenczner Slaght counsel.

Attached as **Exhibit “LL”** is a copy of Jean-Marie Dixon’s email to ALOC about Faisal Bhabha and the WDHP/RWP investigation dated February 14, 2022.

121. On February 18, 2022, I received an email from ALOC confirming that Faisal Bhabha is the spouse of a Goldblatt lawyer and that he articulated at this law firm; and a draft for my review, of what ALOC intended to include in a letter to the Crown regarding the WDHP/RWVP investigation of my Twitter Account.

Attached as **Exhibit “MM”** is ALOC’s email to Jean-Marie Dixon regarding Faisal Bhabha and what it intended to send to the Crown about its WDHP/RWP investigation of her Twitter Account dated February 14, 2022.

122. On February 22, 2022, I responded to ALOC’s February 14th email, noting that while their draft included salient points, it failed to address a number of matters, such as the conflict issue of the Crown employing Faisal Bhabha when he is associated with Goldblatt; ALOC grieving the Crown’s use of the WDHP/RWP to once again silence and abuse me; and that as the issues that the Crown has hired the investigator for are currently before the Court and other adjudicative bodies, it is highly inappropriate (as had been noted by the Crown’s counsel, Lenczner Slaght, in response to my concerns regarding my abuser, Amy Then, being allowed to sit on panels) for the Crown have commenced the WDHP/RWP investigation. Additionally, I once again requested that ALOC forthwith commence a grievance regarding the investigation into my Twitter Account and my substantive complaints against staff, management, and the Employer.

Attached as **Exhibit “NN”** is Jean-Marie Dixon’s response email to ALOC concerning the draft letter it proposed to send to the Crown regarding its WDHP/RWP investigation of her Twitter Account dated February 22, 2022.

123. I am aware of ALOC’s longstanding and ongoing protection of its staff, members, legal representative, and OPS staff and Management who have engaged in anti-Black racism, racial discrimination, racial harassment, and tortious conduct against me. ALOC has trivialized, downplayed, dismissed and gaslighted my lived experiences of being subjected to racial abuse/violence as a dark-skinned Black female employee; provided a Press Release, which it has posted on its website, *strongly* denying it has subjected me to *discrimination*, that it will *defend* itself before the *courts*, and asking people to

email ALOC if they would like more information; and has blocked my access to the ALOC membership website/portal.

Attached as **Exhibit “OO”** is a copy of ALOC’s Press Releases regarding Jean-Marie Dixon’s civil lawsuit against ALOC and the Crown.

124. I am aware that the Ontario Human Rights Commission (OHRC) communicated with the Crown and with Black female employees regarding the issue of anti-Black racism, misogynoir, and racial discrimination and racial harassment against Black women in the OPS.

Attached as **Exhibit “PP”** are copies of the OHRC, communications to the Head of the Ontario Public Service dated March 6, 2018 and June 14, 2019.

125. I am aware that in and around early 2017, the Crown commenced a restoration initiative, aimed at rebuilding relationships, and retained an external consultant, Leslie Macleod to identify issues in MAG’s Civil Law Division that have negatively impacted employee morale, engagement, and confidence, with the objective of promoting and/or restoring a positive, respectful, and inclusive workplace.

126. I am aware that Leslie Macleod’s Report, called *Turning the Ship Around*, released to MAG employees on July 21, 2017, indicates:

- a) The CVLD is dysfunctional.
- b) Racial discrimination exists in the CVLD.
- c) Racialized lawyers feel “unsafe and targeted” by their colleagues. and insufficiently supported by Management.
- d) Employees have “zero confidence” in the WDHP.
- e) Management is aware that the WDHP system is ineffective.

127. I am aware that on June 3, 2021 — four years after Leslie Macleod’s Report — the Crown released internally to the OPS, two lengthy reports regarding (1) anti-Black racism and (2) its workplace policies/programs, prepared by EMC Consulting Inc. and INDsight Consulting, respectively entitled, *Third Party Review – Anti-Black Racism Final Report 2021*, and the *Ontario Public Service Third Party Review of Workplace Policies and Programs Final Report*, accompanied by an *Apology Letter* signed by Steven Davidson, the former Head of the OPS and twenty-nine OPS Deputy Ministers, *meaninglessly* asserting: “We apologize for the harm caused to Black employees by the prevalence and severity of anti-Black racism in the workplace.” These reports once again demonstrate the intractability of individual and systemic anti-Black racism, racism in general, and white supremacy in the OPS, and the Crown’s (and ALOC’s) refusal to address these atrocities in a meaningful and substantive manner.

Attached as **Exhibit “QQ”** is a copy of Steven Davidson’s and OPS’s Deputy Ministers’ *Apology Letter* to OPS employees dated June 3, 2021.

Attached as **Exhibit “RR”** is a copy of the *Third Party Review – Anti-Black Racism Final Report 2021* prepared by EMC Consulting Inc.

Attached as **Exhibit “SS”** is a copy of the *Ontario Public Service Third Party Review of Workplace Policies and Programs Final* prepared by INDsight Consulting dated March 19, 2021.

128. I am aware that the Crown also retaliates against non-Black employees who speak out against anti-Black racism in the OPS. For example, former employee, Jacqueline Kennedy, authored an article entitled, *“Unthinkable”: A Consultant’s Story*, describing racist conduct against Black employees and the backlash she experienced when she raised her observations.

Attached as **Exhibit “TT”** is a copy “Unthinkable”: A Consultant’s Story by Jacqueline Kennedy.

SICKNESS, DISABILITY, REINSTATEMENT MOTION, AND RETURN TO WORK

Short Term Sickness Plan

129. On August 16, 2018, even though the Crown's management-initiated WDHP investigation, and the Crown's management-initiated WVP investigations against me had not been finalized, and contrary to the terms of the investigations/my removal from the workplace, the Crown *unilaterally* placed me on an OPS Short Term Sickness Plan (STSP) leave.

130. The consequences of the Crown placing me on a forced STSP leave, was the depletion of my STSP 130-days entitlement; the loss of pre- and post-vacation days; the loss of sick days that would accrue while awaiting the conclusion of the Crown's management-initiated investigations against me; the loss of my fulltime pay; a 25 percent reduction in my pay; and the termination of my pay, altogether.

Disability Benefits

131. Although, the Crown's WDHP and WVP management-initiated investigation against me were still ongoing, and the proviso that I was to receive my full pay and benefits during the investigations, the Crown insisted that I apply for disability benefits under OPS's Long Term Income Protection Plan (LTIP), which the Crown and ALOC knew would provide me, the victim of relentless anti-Black, with *only* 66^{2/3} percent of my gross pay, and would be fixed at the amount I was earning at the time I was deemed to be disabled within the meaning of the Collective Agreement.

Attached as **Exhibit "UU"** is a copy of the OPS's LTIP Questions and Answers Brochure.

132. In or around March 2019, the Crown *unilaterally* terminated my pay and benefits even though the two management-investigations against me were still ongoing.

133. On April 11, 2019, I received my last pay cheque in the amount of about \$1,300.

134. On May 29, 2019, I submitted paperwork for LTIP benefits. Unbeknown to me then, the Crown, while insisting that I apply for LTIP benefits, was duplicitously undermining my LTIP application with its insurer Great West Life, via its MAG Manager of Resources and Planning Development, Lawrence Helpert.

Attached as **Exhibit “VV”** is a copy of email chain that took place between Great West Life and Lawrence Helpert in and around June 20, 2019.

135. On August 13, 2019, Lydia H. of Great West Life informed the Crown and I that it had denied my application for OPS’s LTIP benefits.

Attached as **Exhibit “WW”** is a copy of Lydia H.’s letter to Jean-Marie Dixon denying her LTIP benefits dated August 13, 2019.

136. I have never met Lawrence Helpert, and he does not know me. I first became aware of Lawrence Helpert, when I received a letter from him, via email, dated August 20, 2019, asserting that the Crown had ‘decided to extend my health benefits coverage until September 30, 2019, just over two weeks after my motion for interim relief before Justice Schabas’; and threatening that I would be disciplined should I not return to work if directed to do so, including dismissal.

Attached as **Exhibit “XX”** is a copy of Lawrence Helpert’s email and letter to Jean-Marie Dixon about her health benefits coverage and potential discipline dated August 20, 2019.

Reinstatement Motion

137. In August 2019 and September 2019, I served the Crown and ALOC with my Notice of Motion, and my Affidavits affirmed August 20, 2019, and September 4, 2019, and Factum submitted September 10, 2019.

138. The Crown paid three Lenczner Slaght lawyers — including the firm’s managing partner, Tom Curry, an old white man — to represent the Crown on my reinstatement motion. The Crown’s responding materials included an affidavit sworn by an employee named Lawrence Helpert. Outrageously and damagingly, the Crown attached as exhibits to the Lawrence Helpert’s Affidavit, the anti-Black, racist, white supremacist, inflammatory, and defamatory WDHP Reports. The WDHP Reports were proffered as proof that I have not been subjected to anti-Black racism and that I had ‘created poisoned and toxic work environment.’”

139. The Crown’s factum, signed off on by all three Lenczner Slaght counsel — Tom Curry, Rebecca Jones, and Delna Contractor — falsely asserts:

- “Ms. Dixon’s evidence in support of the causes of action advanced in her Statement of Claim consists almost entirely of hearsay, statements of opinion, bald allegations, and anecdotal evidence and cannot support a prima facie case.”
- “The evidence put forward in Ms. Dixon’s Affidavit on this motion, to support allegations of discrimination and racism, are largely based on hearsay, statements of opinion, bald allegations, and anecdotal evidence.”

- “Ultimately, after a review of Ms. Dixon’s complaints, and the final report found that none of the allegations were substantiated and all of the MAG Respondents were completely exonerated.”
- “The evidence presented by Ms. Dixon consists almost entirely of hearsay, opinion evidence, and conjecture ... statements of opinion, and conclusory statements.”

Attached as **Exhibit “YY”** is a copy of the referenced sections of the Crown’s Factum signed September 12, 2019.

140. Furthermore, the Crown and Lenczner Slaght counsel asserted in their materials that the court should dismiss my motion for the reinstatement of my pay and benefits as I ‘had other options / several routes for the reinstatement of my pay and benefits, which included returning to work.’

141. On September 13, 2019, *six* months after the Crown terminated my pay and benefits, and I was without *any* income, my motion for the reinstatement of my pay and benefits was presided on by “judge” Paul Schabas — whom throughout my proceedings, has engaged in, reified, concealed, sealed, enabled, abetted, gaslighted and protected anti-Black, abusive, misogynoiristic, and white supremacist conduct against me — who dismissed my motion, condoning the anti-Black and racist sentiments of the Crown and its counsel:

- “On the record before me, while many causes of action are pleaded, the evidence does not go beyond Ms. Dixon’s assertions – allegations of wrongdoing contained in conclusory statements, hearsay and opinions expressed by her...”

- “As well, I must consider the full record, which informs me that, thus far, Ms. Dixon’s complaints have not been substantiated; indeed the WDHP report upheld a complaint against her, although I recognize there is a grievance outstanding.”
- “In my view there is insufficient evidence on which to form a strong *prima facie* case.”
- “I recognize that some of Ms. Dixon’s options may involve steps to be taken by her union, ALOC, which she is suing in this proceeding. In her reply submissions, Ms. Dixon asserted that she cannot tell ALOC what to do and said that ALOC has refused to advance her grievances. I have no evidence of what ALOC has or has not done for Ms. Dixon.”
- “The Court may not be the proper forum for any complaints she have regarding ALOC’s representation of her, but she has not sought injunctive or other relief against ALOC on this motion, or to my knowledge anywhere else.”
- “And, although ALOC had counsel present, she made no submissions and ALOC took no position on Ms. Dixon’s motion.”

Attached as **Exhibit “ZZ”** is a copy of the referenced sections of Paul Schabas J.’s Endorsement dated September 23, 2019.

142. The Crown’s and ALOC’s adverse treatment of me, as a dark-skinned Black female employee/member, is diametrically different than the way they have treated and are treating white OPS staff and managers, who have subjected me to anti-Black racism/violence — where I have been met with disdain, gaslighting, apathy, anger, marginalization, reprisal, and discipline — my abusers have been coddled, supported, protected, valued, awarded, comforted, allowed to remain in the workplace; have been

provided with free, zealous, and resolute legal advocacy/representation on my herein lawsuit; and have benefited from being represented by a law firm that has a former judge of the Supreme Court of Canada and who was formerly a senior partner at McCarthy.

Return to Work

143. On September 24, 2019, I notified the Crown, ALOC and the OHRC via email that I had returned to work, as expressed/required by the Crown; as submitted in writing and orally by the Crown's counsel, Lenczner Slaght, on my motion for the reinstatement of my pay and benefits; and per Paul Schabas J.'s holding in his Endorsement, on my motion for the reinstatement of my pay and benefits, dated September 23, 2019.

144. I did not receive a response to my September 24th email indicating that I had returned to work.

145. On October 18, 2019, I physically attended at the OHRC office. I was not warmly or professionally welcomed. There was palpable confusion and anxiety regarding my attendance. I was made to wait around in a boardroom while they sought instructions from MAG. This experience was exceedingly painful, demeaning, and humiliating.

146. It was indicated that I was not supposed to be at the OHRC and that I should leave. Given the Crown's continued abuse and obfuscation in its interaction with me, I indicated that I would not feel comfortable leaving without having something in writing indicating that MAG was prohibiting me from returning to work.

147. Eventually, OHRC management informed me that MAG had sent me a letter indicating that I was not to be at work.

148. The letter was written by Lawrence Helpert, the same MAG representative who had only weeks prior, threatened me with discipline, including job termination if I did not return to work. As well, Lawrence Helpert was the Crown's deponent on my motion for the reinstatement of pay and benefits, wherein the Crown argued that an option for having my pay and benefits was to return to work. Despite having exercised the option of returning to work, the Crown now informed me that I was to remain on an unauthorized unpaid leave of absence and was not to report to the workplace unless otherwise requested.

149. On October 15, 2019¹², and on October 24, 2019, I wrote to ALOC's then President, Megan Peck, and SOC Davidson regarding the Crown barring me from the workplace, and its refusal to reinstate my pay and benefits, despite my return to work. I was met with indifference.

Attached as **Exhibit "AAA"** is a copy of Lawrence Helpert's letters and emails to Jean-Marie Dixon dated October 11, 2019, and October 18, 2019; and Jean-Marie Dixon's emails to SOC Davidson and ALOC dated October 15, 2019, and October 24, 2019.

150. To date, despite my return to work, the Crown has refused to reinstate my pay and benefits. And the Crown and ALOC have been protective of my abusers, including providing them with support, advocacy, and/or legal presentation.

¹² My email included as an attachment Lawrence Helpert's email exchange in June and July 2019, with the Crown's insurer, Great West Life, wherein he undermined by LTIP Application.

INCOME AND EXPENSES

Principal Residence

151. In December 2015, based on my pay as a CC3 Crown counsel, which was to increase for several more years based on my year of call and the tariff for ALOC lawyers, I purchased my dream home.

152. My new home was perfect for me in terms of its layout and in terms of its location. I grew up in a small, all white town, and despite moving to Toronto in 1995, this was the first time in my life I would be living in a racially and socioeconomically diverse area, which pleased me immensely.

153. I purchased my new home for \$1,324,122.94. As the purchase price was over one million dollars, I had to provide a 20 percent down payment to obtain a mortgage. Additionally, as my house is in the City of Toronto, I had to pay both city and provincial land transfer taxes.

154. I secured a loan with the Bank of Montreal (BMO) in the amount of \$1,040,000.00, with a mortgage payment of \$1,895.65 biweekly, with a fixed interest rate of 2.54 percent per year commencing January 15, 2016, for a term of five years, with an estimated principal balance of \$917,358 due on January 1, 2021.

Attached as **Exhibit “BBB”** are copies of my BMO and Scotiabank mortgage documents, and my statements of property tax arrears.

155. I am aware that CRIA staff, including MacDonald, who assaulted me on three separate occasions in April and May 2016, for working, while Black, in one of CRIA's

two boardrooms, knew that I was a sole parent/provider and had just purchased a new and costly home.

156. When the Crown suspended me from the workplace, May 2016, I had only resided at my new home for five months. Since then, I have had to refinance my home three separate occasions, sometime at a higher interest rate. The refinancing has also increased my principal owing and biweekly mortgage payments, thus putting me further in debt. The last time I refinanced my home was March 2019. The equity that I removed from my home, has been used to pay for legal and other expenses resulting from my experience of racial discrimination and racial harassment in the workplace — the biweekly changes to my mortgage: \$2,076.58 commencing February 10, 2017; \$2,253.69 plus \$178.53 creditor insurance commencing May 4, 2018; \$2,531.51 commencing April 5, 2019, reduced to \$2,329.66 upon the removal of the creditor insurance amount.

Attached as **Exhibit “CCC”** are copies of Sun Life’s letters to Jean-Marie Dixon dated April 3, 2019, April 16, 2019, and August 1, 2019.

157. When the Crown terminated my pay in and around March 2019, I had no other source of income. I received my last pay in the amount of about \$1,300.00, April 2019.

158. I received from Ranjan Agarwal the return of the \$25,000.00 retainer I had provided to him, and I used this money to support myself, my son, and my two dogs.

159. Based on the Crown’s discriminatory and prejudicial conduct, which are in breach of the law and its own undertakings, I am impecunious. As I receive a fixed amount and

do not have employment income, I can no longer afford the necessities of life for myself and my son:

- (a) I have no RRSPs.
- (b) I purchased my home residence in 2015, for \$1,300,000, and at that time obtained a mortgage in the amount of \$1,040,000.
- (c) Despite biweekly mortgage payments of approximately \$5,000 per month, I now owe about \$1,190,000.00, on my home residence due to having refinanced my mortgage three times.
- (d) As of April 13, 2022, I owe \$22,339.48 in outstanding property taxes on my home residence.
- (e) The mortgage owing on my rental property is \$342,541.30.
- (f) As of March 7, 2022, I owed \$6,111.06 in outstanding property taxes on my rental property.
- (g) I have had to borrow money from friends to meet financial obligations.
- (h) I have had to place purchases on my credit cards and withdraw cash from my line of credit/credit cards to meet my financial obligations.
- (i) I owe approximately \$25,000 on my personal line of credit.
- (j) I owe approximately \$46,717.90 on my credit cards.
- (k) I had to sell stocks, I planned to own indefinitely until their value increased significantly, to pay for the necessities of life.
- (l) In 2019, I had to skip two home mortgage payments (the maximum allowable) to not default on my home/primary mortgage.

- (m) In 2022, I had to skip two home mortgage payments (the maximum allowable) to not default on my home/primary mortgage.
- (n) In 2022, I applied to TD Visa for interest payment relief and was given a three-month forbearance.
- (o) I presently receive \$8,318.80 in disability income.
- (p) My living expenses per month are approximately \$13,889.57.
- (q) My living expenses exceed my income by over \$5,000 per month.
- (r) I owe approximately \$158,488.58 more on my home than I did when I purchased it six years ago.
- (s) My abusers continue to receive their full pay and salary increases — for example, the Government of Ontario salary disclosure indicates that since my pay was terminated, for the period 2019 to 2021, the following:

LAWYER	2019	2021
Miriam Young	\$213,386.50	\$229,381.53
Amy Then	\$182,415.04	\$202,312.83
Sara MacDonald	\$191,756.32	\$213,209.31
Konstantina (Dina) Chantzis	\$211,409.48	\$229,381.53

Attached as **Exhibit “DDD”** are a Financial and Expense Calculation documents prepared by Jean-Marie Dixon for the year 2021, and the Ontario government’s salary disclosure for Miriam Young, Amy Then, Sara MacDonald and Dina Chantzis.

160. I am aware that credit cards are not income.

161. I am aware that a line of credit is not income.

162. I am aware that governments are aware that lines of credit and credit cards are not income. For example, the Government of Canada has a webpage devoted to using your credit card responsibly, noting that people should “aim to pay off [their] balance in full every month:

When you use your credit card, you are borrowing money that you have to pay back. A credit card does not increase the amount of money you have available. Your credit card spending should fit within your regular household budget.

If you don't use your credit card wisely, you may end up:

- building up debt
- paying interest
- hurting your credit score

Attached as **Exhibit “EEE”** are a Government of Canada online articles entitled, *Using your credit card responsibly* and *Protecting yourself if interest rates rise*.

163. My forced reliance on credit has kept me in a cycle of subsistence living, wherein, significant amounts of my fixed disability income is going to pay of perpetually compounding interest. For example, on my TD Visa card, in 2021, I was making payments on average of \$1,900 per month, with no dent in the \$20,000 balance owed.

164. As a result of the Crown terminating my pay, my Equifax credit score fell from an excellent rating of 773 in 2018, to a fair rating of 623 in 2022.

Attached as **Exhibit “FFF”** is a copy of Jean-Marie Dixon's Equifax credit score for 2018 and 2022.

165. My credit score will continue to fall as I can no longer sustain paying the ever-increasing interest accruing on my credit cards and line of credit.

166. The mortgage on my home residence is due for renewal in a few months, and I will not qualify for refinancing based on the disability income I receive.

167. I am aware that interest rates and inflation are increasing, which will further negatively impact my ability to pay for the necessities of life and pay my debts.

168. I am aware that the Crown will drag on litigation for years. For example, in the case of *McKinnon v. Ontario (Ministry of Correctional Services)*¹³, the Crown, its employees, servants, and representatives subjected McKinnon to repugnant and damaging anti-Indigenous racism. I am aware that McKinnon brought a HRTO application and that Cavalluzzo LLP represented him. I am that based on the Crown's misconduct and disregard for McKinnon and his family's wellbeing, the HRTO litigation lasted two decades. I am aware that for twenty years the Crown demonstrated a flagrant disregard for McKinnon and his family's wellbeing, and a contempt for HRTO's orders.

Attached as **Exhibit "GGG"** is a copy of a Law Times article on Michael McKinnon, entitled, Landmark human rights settlement dated September 12, 2011.

169. Although the McKinnon case was over a decade ago, the Crown continues to demonstrate a similar disregard and contempt for me, and other Black and racialized OPS employees subjected to racial abuse/violence. Accordingly, I anticipate that the Crown (and ALOC) will have my matter drag on for years. I cannot continue to fight the

¹³*McKinnon v. Ontario (Ministry of Correctional Services)* 2011 HRTO 263 (CanLII)

defendants, receiving only a portion of my income, while the Crown and ALOC continue to coddle, protect, defend, and provide representation for those who have subjected me to vile acts of anti-Black racism, racial abuse/violence, and systematic and denigrating lies deliberately based on depraved stereotypes and tropes about Black women/people, created to maintain our marginalization and oppression.

LEGAL REPRESENTATION WHILE A BLACK WOMAN

170. To date, finding legal representation as a Black person, more specifically, a Black woman, to address the anti-Black racism and misogynoir the defendants have subjected me to has not been fruitful.

171. Based on my own lived experiences; communications I have had with other Black people, my own observations of their experiences and that of other Black people; and reading of Canadian caselaw; and my assessment of social science research and articles, I verily believe that structural and individual anti-Black racism, and white supremacy — which include keeping Black people, unemployed or underemployed, and diverting money from the necessities of life/savings to fight anti-Black racism — has resulted in me (and other Black people) not being able to retain and afford competent, knowledgeable, effective, and zealous counsel to represent me (us).

172. I am aware that on December 1, 2020, federal Black employees filed a class action lawsuit in the Federal Court of Canada. I am aware that the lawsuit is seeking to address systemic racism and discrimination in the Public Service of Canada and is seeking general pecuniary and non-pecuniary damages in the amount of \$2.5 billion. I am aware that due to the incredible cost of funding this type of litigation, someone

established a GoFundMe Account to raise money for the class action. I am aware that the due to racism, the Black community has limited disposable income, and thus are not able to finance ordinary, let alone expensive litigation. For example, I aware that originally the GoFundMe Account was seeking to raise a sizable portion of the cost of the litigation but was subsequently reduced to only \$100,000. I am further aware that as of March 6, 2022, the GoFundMe Account had only raised \$11,078 of the \$100,000 it is presently seeking.

Attached as **Exhibit “HHH”** is a copy of Black Federal Public Service Workers GoFundMe Account as of May 12, 2022.

173. I am aware that aside from class actions, general litigation is very costly. For example, I am aware that the Government of Ontario, i.e., taxpayers, are “facing a \$3.4 million legal tab” in the second failed disciplinary case against judge Donald McLeod over his advocacy work on behalf of Black Canadians.” And I am aware that the \$3.4 million does not include the full costs of the two separate proceedings that the Ontario Judicial Council brought against Justice McLeod.

Attached as **Exhibit “III”** is a copy of a Toronto Star article, entitled, *Ontario faces \$3.4 million bill in second failed prosecution of Black judge over his Black advocacy* dated July 29, 2021, and Mayor Patrick Brown’s letter to the Attorney General, Doug Downey, dated July 30, 2021 regarding this matter.

174. The public inquiry into the Red Hill Valley Parkway is another example of the prohibitive cost of legal and quasi-legal proceedings. I am aware that the City of Hamilton has retained Lenczner Slaght to represent them. An online article about the inquiry indicates that the costs, which was, initially estimated to be \$7 million, is now, based on costs incurred since December 2021, expected to be somewhere between

\$18 million and \$20 million; and that of the \$13 million plus that has accrued thus far, \$12 million of this amount is going to lawyers.

Attached as **Exhibit “JJJ”** is a copy of an article regarding the public inquiry into the Red Hill Valley Parkway, entitled, *Costs of Red Hill Judicial Inquiry Continue to Mount* dated April 6, 2022.

175. I am aware that the Crown plays a pivotal role in the administration of justice, that the Crown has a responsibility to ensure that litigation concerning itself is conducted in a manner that is consistent with the public interest, and that the Crown is not to be concerned with “winning” but with justice. Accordingly, given the persistence and prevalence of anti-Black, which surveys, reports, investigations have demonstrated, and the OPS has acknowledged; the power imbalance amongst myself, the Crown, and ALOC; and equity concerns — the Crown has a responsibility to ensure that I too am able to retain counsel, that is astute, zealous, and have a demonstrated “record of success in high-profile litigation.”

Experiences with Lawyers

176. In and around 2008, as the Crown refused to address my experiences of FRO staff and management subjecting me to anti-Black racism, I turned to my association, ALOC, for assistance.

177. At my initial meeting with Denna Exner, ALOC’s then President, she advised me that it was best for ALOC to approach my matter via informal channels. When I next met with Deanna Exner, she appeared angry and upset. She told me that Management had threatened her for trying to assist me, and that she would not be able to help me. ALOC refused to commence any grievances on my behalf regarding my experiences at FRO.

178. As a result of ALOC's misconduct towards me, I was forced to retain counsel at my expense. This has proven to be a difficult, painful, and unproductive experience: at times after having gone into a lengthy and triggering retelling of my experience of being subjected to anti-Black, I was advised that counsel cannot assist me; other times, having just provided my name, I was informed there was a conflict of interest, and that counsel could not assist me. Further, during this time a prospective "Black" lawyer haughtily indicated that as a dark-skinned Black woman, it is natural that OPS staff/management would subject me to racism.

179. Despite the passage of 14 years, my experience in attempting to retain counsel to assist me on the herein matter has not been any more successful than it was for me when I was Crown counsel at the FRO. For example, after the Crown suspended me from CRIA, I advocated for and was invited to attend a meeting with the then Head of the OPS, Steven Orsini, to discuss my experiences and anti-Black racism in the OPS, and wrote to my lawyer indicating Steve Orsini may feel less comfortable being open and candid about matters if I attend the meeting with legal representation, my lawyer responded:

You have ignored protocol which draws from basic human decency in having respect for your counsel ... The meeting with Orsini ought not to proceed until such time that I have a change to write to him and the Assistant Deputy Minister for the AG's office. I wish to not only deal with anti-Black racism as it affects you but also as those who have been oppressed... not just yourself.

180. Consequently, I was forced end the retainer with this lawyer, and retain another lawyer to file a human rights application on my behalf.

181. In September 2017, I attended at anti-Black racism event for two dark-skinned Black female OPS employees, held at Laura Albanese's York South-Weston constituency, where I met Hentrose Nelson (Hentrose). We bonded over our shared experiences of anti-Black racism in the OPS, becoming fast friends and a support person for each other. When we met Hentrose, and I had different legal representation and had both had highly negative experiences with counsel representing us regarding our experiences of anti-Black racism in the OPS.

182. Hentrose and I found our experiences with our respective counsel to be highly traumatic, particularly as we were vulnerable, and were already living through our historical and continued experiences of misogynoir, racial abuse, racial discrimination, and racial harassment in the OPS, by staff, management, and our respective association.

183. Hentrose and I determined that we would retain counsel together to represent us in a civil action, and that it was paramount that said counsel have a profound knowledge and understanding of anti-Black racism, intersectionality, white privilege/supremacy; not be afraid to litigate against the Crown; be a seasoned litigator; and be committed to acting as a buffer between us, the Crown, and our respective association.

184. Hentrose's and my search for counsel was laborious, painful, and exhausting, and involved the continued retelling (and reliving) of our experiences of anti-Black racism in the OPS — thus, we were re-traumatized.

185. In September 2019, Hentrose and I executed a joint retainer for Ranjan Agarwal to commence a civil action against the Crown and our respective association. From the very beginning, the solicitor-client relationship was acrimonious and abusive. Oddly, Ranjan Agarwal treated me and Hentrose with disdain, contempt, hostility, disrespect, and ambivalence. Our experiences with Ranjan Agarwal were painful and traumatizing. Nonetheless, we resolved to keep him as our counsel, due to most lawyers' aversion to challenging racial discrimination in general, and anti-Black racism in particular. Thus, even when he indicated to us, during the retainer process, that "we had left a bad taste in his mouth" because we had questions about a three (3) percent credit card fee he was insisting that we pay, (which is against the Law Society of Ontario's Rules of Professional Conduct (RPC) and Bennett Jones payment policies) Hentrose and I remained committed to keeping him as counsel. Moreover, Ranjan Agarwal himself indicated to us that we are unlikely to find counsel to represent us on our matter, and that his law firm, Bennett Jones where he is a partner, was not happy that he was representing us on a matter concerning anti-Black racism.

Attached as **Exhibit "KKK"** is a copy of an email Hentrose Nelson sent to Jean-Marie Dixon, entitled, psychological costs, dated March 3, 2019.

186. Anti-Black racism, misogynoir, and white supremacy are so pervasive and normalized in Canadian society, that even those who acknowledge its presence, and consider themselves knowledgeable, "equity, diversity and inclusivity" (EDI) champions, and/or anti-racist, engage in and reify anti-Blackness. For example, despite Ranjan Agarwal being a racialized man, and professing to care about human rights issues, he subjected us to hostile, demeaning, infantilizing, and discriminatory conduct. Thus,

Hentrose and I spent hours consoling one another regarding his inappropriate, misogynoiristic, antagonistic, and unlawyerly conduct towards us. Furthermore, I am aware that Black lawyers have also engaged in abusive conduct towards me, Hentrose, and other Black women.

187. In addition to the above, I have encountered ambivalence, anger, fear, disinterest, and abuse, even from well-known, esteemed, and respected human rights counsel/law firms regarding my workplace experiences and my legal proceedings. For example:

- (a) After a meeting where I had stated to Marisa Pollock of Goldblatt that she lacks expertise in anti-Black racism, my lawyer angrily chided me, stating that I did not have to insult her, and later unwarrantedly accused me of “cutting of my nose to spite my face.”
- (b) When my former co-plaintiff and I reached out to a well-known law firm that has experience in representing OPS employees, after a number of oral and written communications — a very exhausting and re-traumatizing experience that involved retelling our experiences and the provision of documents — that took place over the course of a week, we were shocked to be informed, “After chatting with...we’ve determined that these are not matters that we’d be in a position to assist with at this time.”
- (c) After having meeting with lawyers and providing them with pertinent documents — which took a toll on our mental and physical wellbeing — my co-plaintiff and I were subsequently told that their firm cannot take on our matters, due to capacity issues, and that our “matter is very complex

and needs a lawyer with sufficient time and resources to dedicate to this...”

- (d) My lawyer who had previously received a synopsis of my case, had conducted a conflict of interest check prior to being retained, and then had received substantial materials from myself and my co-plaintiff, five months or so after being retained, and four months after our Statement of Claim was to have been completed by him, after having had a conversation with one of my abusers, indicated that I would have to remove her name from the Statement of Claim, or seek different representation, as my abuser is “somewhere between a colleague and a good friend” of his; that he did not know or understand that I intended to make allegations against her personally; that he would be challenged to issue a Statement of Claim that named her; and that he would not be able to be a solid advocate for me, if her name remained in the document. He provided me with three options, all of which he indicated were not great options: (1) that I not name his “friend/colleague” in the Statement of Claim, (2) that I engage someone else in his office to take on the case, stating that this is not something that he knows I would want to do, and that I would not find someone in his office that has the experience to take on our case, or (3) I find different legal representation once the Statement of Claim is issued.
- (e) Two law firms requested \$15,000.00 up front for them to write a legal opinion about our matter, as a precursor to being retained.

- (f) More recently, in seeking legal representation, I was informed by counsel that “we will not be able to represent you in the motion for advanced costs. This is a significant undertaking and it would not be funded unless costs are awarded and after the fact.”
- (g) As well, in seeking representation for my funding motion, although I had provided him with a two-page synopsis indicating that I have an application before the HRTO and three ongoing Grievances, stated, “have you considered going to the human rights tribunal where jurisdictional issues aren’t going to be raised? The cost would be a lot less and the tribunal is known to side with people like you on these types of issues.”
- (h) When I sent an email to the former Head of the OPS that I copied my lawyer on that included questions about Lenczner Slaght, stating:

Have you/the Employer retained a firm with racial diversity - are there any Black lawyers working at Lenczner Slaght? What is the racial background of counsel and legal support staff? Does Curry have a demonstrated experience and expertise in anti-Black racism, racism in general, white supremacy, white privilege, white fragility? It would be much appreciated if you would address my inquiries in writing.

Subsequently, during a teleconference, my lawyer, lashed out at me, angrily asserting, what would it matter if the Crown had retained a member of the KKK to represent them — however, it does matter. A lot of the anti-Black racism I have been subjected to since the Crown retained Lenczner

Slaght likely would not have happened, if the Crown had retained counsel that is well versed in anti-Black racism, racism in general, misogynoir, and white supremacy, and had a demonstrated and verifiable commitment to addressing and taking a stand against these atrocities.

NECESSITY OF FUNDING

Public Interest

188. I am aware that Black people and racialized people in white dominated workplaces/spaces (and women in male dominated workplaces/spaces, and other historically oppressed groups, similarly situated) — whether unionized or not — are outnumbered by non-racialized employees and management and thus powerless to effect positive change for themselves within their workplace/spaces and their unions/association — it is the story of David vs Goliath.

189. This above issue is problematic, as historically oppressed groups are the most vulnerable, disenfranchised, and poorest of groups in society — lacking access to steady and non-precarious employment, a living wage, disposable income, adequate housing, political influence, resources etc., while at the same time having higher rates of interaction with the criminal justice system, children's aid services, school discipline and expulsion, individual and systemic workplace abuse — indeed, I am aware that the Government of Canada's decision to reinstate its *Court Challenges Program* was based on the recognition that the costs of litigation can impede access to justice.

190. I am aware that the anti-Black racism I have experienced as Crown counsel is not an isolated issue. Not only are anti-Black racism, racism in general, misogynoir, and

white privilege/supremacy longstanding and systemic issues within the OPS, they have proven to be intractable. Further, I am aware that these atrocities have had tangible, concrete, and lasting negative effects on the professional and personal wellbeing of racialized employees, particularly Black employees, and their families. The harm is particularly devastating, given that tremendous power imbalance amongst racialized employees (particularly Black female employees), the state, and our associations/unions. This power imbalance is exacerbated in workplace environments like the OPS that are predominantly white and/or managed by white people.

191. The OPS has unlimited human and financial resources and has demonstrated that it is a recalcitrant adversary against its Black and racialized employees in our fight for racial justice, equity, and accountability. Consequently, Black, and racialized employees are scared to speak out, publicly and internally, about racism in the OPS. From my own firsthand experiences, I am aware that this is a legitimate fear, as the Crown not only frowns upon such action, but actively disciplines, retaliates against and reprisals individuals who speak out about their experiences of racism in the OPS.

192. The negative actions taken by the Crown against Black and racialized employees include reprisal; retaliation; assignment of poor files, spreading of lies; degrading or inferior work/locations; targeting; surveillance; policing; gaslighting; demotion; threats; isolation; suspension; forced leaves; pay disruption/termination; and dismissal.

193. My matter raises issues of national importance that the courts have not yet addressed:

- (a) The right of non-unionized Black and racialized employees to access the courts when the state has violated their common law and Charter rights.
- (b) The right of non-unionized and unionized Black employees and employees belonging to other oppressed and marginalized groups to access the courts when other forums for accessing justice, such as internal workplace systems and processes, and external labour and human rights systems and processes have been ineffective in upholding their right to be free from discrimination and harassment, and their right to security of the person; and
- (c) Whether collective agreements get their force from labour and employment statutes or from the *act* of a group of employees who by operation of law are prohibited from unionizing, coming together under the umbrella of a corporation they call an “association” and then entering into an employment agreement with an employer, as if they are a certified trade union.

194. My matter is likely resolve a number of existing or potential actions that raise similar legal and factual issues in the public service and the private sector, and thus presents a cost-effective way of addressing important legal issues raised by my case, such as equality rights, the Oakes Test, tortious conduct, discrimination, harassment etc., as they relate to anti-Black racism, racism in general, misogynoir, ableism, intersectionality, white supremacy, in unionized and non-unionized work environments.

195. My matter is likely to reduce the need for further litigation by Black and racialized OPS employees and promote greater access to the legal system by clarifying laws to the benefit Black and racialized non-unionized and unionized employees, and Black and racialized communities, and low-income Ontarians, wherein there is a significant percentage of Black and racialized people.

196. My matter is a public interest matter as it advances important public interests, such as access to justice, transcends my individual interests, as it relates to collective, social and community issues of anti-Black racism, racism in general, ableism, intersectionality, white supremacy; addresses serious issues that fundamentally affects racialized and marginalized, low-income and disadvantaged communities whose perspectives have not come before the courts or unlikely to come before the courts; and is an effective and efficient use of resources – a practical and realistic means of bringing the issues of racial inequity/justice before the court.

Significance

197. My matter is of great significance as it will shape and advance the law and jurisprudence on anti-Black racism and misogynoir in the civil law context; as well as tort, human rights, and employment/labour law as they apply to these issues.

198. The timing of my matter is also significant — The United Nations has deemed 2015 to 2024 the “International Decade for People of African Descent (African Decade). In proclaiming this African Decade, the international community is recognizing “that people of African descent represent a distinct group whose human rights must be

promoted and protected” and that states should ensure access to justice and the right to development, among other things, by:

- (a) Introducing measures to ensure equality before the law, notably in the enjoyment of the right to equal treatment before tribunals all other organs administering justice.
- (b) Designing, implementing and enforcing effective measures to eliminate the phenomenon popularly known as “racial profiling.”
- (c) Eliminating institutionalized stereotypes concerning people of African descent and applying appropriate sanctions against law enforcement officials who act on the basis of racial profiling.
- (d) Ensuring that people of Africa descent have full access to effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination, and the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.
- (e) Adopting effective and appropriate measures, including legal measures as appropriate, to combat all acts of racism, in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, violence or incitement of racial violence, as well as racist propaganda activities and participation in racist organizations.

- (f) Facilitating access to justice for people of African descent who are victims of racism by providing the requisite legal information about their rights, and providing legal assistance when appropriate.
- (g) Preventing and punishing all human rights violations affecting people of African descent, including violence, acts of torture, inhuman or degrading treatment, including those committed by State officials.
- (h) Ensuring that people of African descent, like all other persons, enjoy all the guarantees of a fair trial and equality before the law as enshrined in relevant international human rights instruments, and specifically the right to the presumption of innocence, the right to assistance of counsel and to an interpreter, the right to an independent and impartial tribunal, guarantees of justice, and all the rights which prisoners are entitled;
- (i) Recognizing that poverty is both a cause and a consequence of discrimination, States should, as appropriate, adopt or strengthen national programmes for eradicating poverty and reducing social exclusion that take account of the specific needs and experiences of people of African descent, and should also expand their efforts to foster bilateral, regional and international cooperation in implementing these programmes.
- (j) States should take concrete measures to eliminate racism, racial discrimination, xenophobia and related intolerance in the workplace

against all workers, in particular people of African descent, including migrants, and to ensure the full equality of all before the law, including labour law, and eliminate barriers, where appropriate, to participation in vocational training, collective bargaining, employment, contracts and trade union activity; access to judicial and administrative tribunals dealing with grievances; seeking employment in different parts of their country of residence; and working in safe and healthy conditions; and

- (k) States should adopt and implement policies and programmes that provide effective protection for, and review and repeal all policies and laws that could discriminate against, people of African descent facing multiple, aggravated or intersecting forms of discrimination based on other related grounds, such as sex, language, religion, political or other opinion, social origin, property, birth, disability or other status.

Attached as **Exhibit “LLL”** is a copy of the United Nations General Assembly, *Programme of activities for the implementation of the International Decade for People of African Descent* dated December 1, 2014.

199. In February 2017, the Ontario government formally recognized the African Decade, thereby committing to combat racism, racial discrimination, xenophobia, and related intolerance that affect people of African descent.

Attached as **Exhibit “MMM”** is a copy of the Ontario government’s News Release entitled, *Ontario Recognizing the United Nations’ Decade for People of African Descent* dated February 21, 2017.

Merit and Anticipated Impact

200. My matter is a meritorious case, of public importance, and is likely to impact the lives of many people, as it relates to Black and racialized lawyers, as well as employees from other marginalized, vulnerable and oppressed groups who are prohibited per the provisions of the *Labour Relations Act, 1995* from unionizing, but belong to associations that are governed by a collective agreement between an employer and an association, wherein they have no standing.

201. My matter is significant as it raises novel issues not previously litigated: it seeks a systemic remedy that can affect many people, not just myself; is of great importance to the development of the law; it advances the law; and has the ability to improve access to justice and to advance or protect the rights of Black and racialized employees, low-income Ontarians, and other vulnerable, marginalized, and oppressed groups.

202. My matter is likely to clarify the Supreme Court of Canada's decision in *Weber v. Hydro*¹⁴ as it applies to lawyers and other employees whom by operation of law are prohibited from unionizing; address the Ontario Court of Appeal's decisions in *Rivers v. Waterloo Regional Police Services Board*¹⁵; and clarify the issue of bifurcated proceedings that arise from lawyers and other similarly situated employees, who are prohibited from unionizing, being required to use different forums to address the actionable conduct of their association and their employer.

¹⁴ *Weber v. Hydro* [1995] 2 SCR 929

¹⁵ *Rivers v. Waterloo Regional Police Services Board*, 2019 ONCA 267 (CanLII)

203. My matter is likely to bring attention to the critical issue of anti-Black racism, racism in general, misogynoir, ableism, and intersectionality.

204. My matter is likely to empower Black, racialized, and other marginalized groups by providing a means for issues negatively impacting their civil and constitutional rights to be platformed, and for them to have their voices heard via intervenor status.

205. My matter is likely to enhance the reputation of and confidence in the civil justice system in Ontario and Canada as a whole. Since the blinding of Dafonte Miller in 2016 by a police officer and his brother, and the murder of George Floyd in the United States in 2020 by the police, there has been greater discourse, awareness of, and acknowledgement that anti-Black racism exists within Canada, that it is systemic, that it negatively effects the psychological, social, financial, mental, physical, and familial wellbeing of Black people; and the role of the government, including its third-branch, in addressing this atrocity.

206. My matter is likely to enhance government transparency and accountability.

Quality

207. My position that the Crown, ALOC and their respective employees/members, servants, and legal representatives have subjected me to anti-Black racism and adverse differential treatment is supported by plentiful demonstrative evidence.

208. I am aware that the timing of my case, and my personal and societal location provide an opportunity for the advancement of anti-Black racism jurisprudence, equity,

and racial justice, thus making my matter an ideal case for advanced costs, and/or funding.

209. Moreover, given the legitimately held fear Black lawyers and other racialized employees hold about their colleagues and managers subjecting them to reprisal for raising issues of racism/white supremacy in their workplaces/spaces, it is unlikely that there is anyone better placed to bring the issues raised by my matter forward.

210. My matter is well-situated to advance the case of anti-Black racism, racism in general, ableism, and misogynoir to the potential benefit of Black, Indigenous, and People of Colour, and other individuals who have been subjected to abuse in their workplace based on their immutable and Charter/Code protected characteristic.

Equal Standing with Canada's Best Law Firm/Lawyers

211. I am impecunious and do not have the financial means to fund my civil action, including responding to the Crown's Rule 21 motion to dismiss my action.

212. My matter is about access to justice. There is a severe inequality and power imbalance between me and the defendants, which is not mitigatable without them funding my civil action.

213. I am aware that ALOC has the capacity to bear the financial costs of my proceedings.

214. I am aware that the Crown has the capacity to bear the financial costs of my proceedings.

215. The Crown and ALOC have retained influential, powerful, and leading litigation and employment/labour law firms to represent them on my matter — Lenczner Slaght and Goldblatt. Together the defendants have a total of six lawyers (publicly) representing them (though likely more lawyers working behind the scenes).

216. Lenczner Slaght has a former judge of the Supreme Court of Canada at the firm. This is important not only in terms of optics, but also in terms of power dynamics and influence as evidenced by the fact that Lenczner Slaght points out on its website — quoting from a Globe and Mail article — that they have “arguably the country’s premier judge” working at the firm.

217. ALOC is paying for two lawyers to represent it on my civil action, while the Crown is paying four lawyers including the law firms managing partner, Tom Curry, whom the Chambers Canada has described as “brilliant, wise and a very hardworking lawyer...who is very focused on achieving his clients’ goals.”

Attached as **Exhibit “NNN”** is a copy of the Lenczner Slaght’s online profile for its managing partner Tom Curry.

218. My matter represents a practical, realistic, and cost-effective way of bringing the issues of anti-Black racism, racism in general and ableism in the legal profession, the OPS, and other workplaces/spaces forward.

219. I am aware that who is representing you can significantly affect the trajectory of your matter, irrespective of its own merits. For example, during one of the case conferences on my matter, when the court was having technical difficulties, Paul

Schabas J. admiringly stated to us, ‘this would never happen at some of those big law firms you work at.’

220. My matter is of merit and importance to myself, to the Black and racialized OPS lawyers, to the legal profession, to the Black and racialized community, and to society in general. Accordingly, I need to be able to retain dependable, competent, and results driven counsel who are not afraid of litigating against the Crown and ALOC and their respective counsel. As well, it is necessary for me to be able to afford counsel who will not expect me to do the legal work or provide substandard work, and who will act as a buffer between myself and the defendants and their respective counsel.

221. I am aware that my matter is of utmost importance to the Crown, hence it has retained outside counsel to represent it on my civil action. And not just any run-of-the-mill law firm, but Lenczner Slaght. A firm “widely recognized as Canada’s leading litigation practice.” A firm that has “successfully represented clients’ interests in some of the most complex, high-profile cases in Canadian legal history.” A law firm that “focuses exclusively on litigation and advocacy...with extensive courtroom experience.” A law firm housed with “expert litigators”:

(a) Experience: they spend more time in court than other firms/lawyers, and over the last 29 years have acted for clients in over 17,000 cases, conducting more than 500 trials, and has spent more than 7,000 days in hearings.

(b) Knowledge: their ranks are filled with recognized experts, including “a former judge of the Supreme Court of Canada; their lawyers are

“backed by a team of first-rate research lawyers”; their lawyers know the ins and outs of the law because they’ve argued some of the leading cases across many practice areas; they represent leading multinational technology and pharmaceutical companies, to some of Canada’s largest financial institutions and public figures; and are experienced litigators.

(c) Precision: they are fearless and fierce.

Attached as **Exhibit “OOO”** is a copy of the Lenczner Slaght’s online information about the firm, entitled, *Why would you want Lenczner Slaght on your side?* and the firm’s recent posting for an EDI Manager.

222. I am aware that my matter is of importance to the Crown and Lenczner Slaght, as on the latter’s website, under Tom Curry’s profile of select cases, my former co-plaintiff’s case is noted as follows: “Nelson v Her Majesty the Queen in Right of Ontario - Counsel to the Defendant, Her Majesty Queen in Right of Ontario, on a successful motion to strike an action by an employee on the basis that the Court lacked jurisdiction over employment disputes that arise under collective agreements. The motion Judge’s decision was upheld by the Court of Appeal of Ontario.”

223. Further, while for the last few years the Crown had retained three Lenczner Slaght lawyers to represent it on my civil matter, including its head honcho Tom Curry, in or around March 2022, the Crown/Lenczner Slaght added yet another lawyer, Sarah Bittman, to the lawyers representing the Crown, raising the number of (visible) lawyers being paid with taxpayer’s money to four. This amounts to double and quadruple the number of Lenczner Slaght lawyers representing the firm’s multimillionaire and

billionaire clients: Harvey Weinstein, Elfriede Stronach, and Abraham Reichmann. Furthermore, Tom Curry has been described as “legendary” and “is recognized as a leading and appellate counsel, [with] a long record of success in high-profile litigation”, is certified as a specialist in civil litigation by the Law Society of Ontario and “regularly appears before the Divisional Court, the Court of Appeal for Ontario, and has appeared in other provincial appellate courts, the Federal Court of Canada, the Federal Court of Appeal and the Supreme Court of Canada” and was counsel for Ontario Superior Court Judges Association.

224. Moreover, I am aware that the Crown via its lawyer, Lenczner Slaght, put through the backdoor, what they could not get through the front door, and anticipate that they will continue to engage in this conduct in future proceedings. For example, although it is well settled that facts pleaded in a Statement of Claim (that are being contested on a Rule 21 motion to strike for lack of jurisdiction) are considered true, Lenczner Slaght in responding to my motion materials for the reinstatement of my pay and benefits, asserted, “Ms. Dixon pleads several causes of action in her Statement of Claim...she has not detailed how the elements of any of the enumerated causes of action are met in this case ... The evidence presented by Ms. Dixon consists almost entirely of hearsay, opinion evidence, and conjecture ... the evidence Ms. Dixon has advanced to support a strong *prima facie* case do not support any of the enumerated causes of action.” The judge hearing my motion, condoned and legitimized Lenczner Slaght’s assertions and conduct, writing in his Endorsement:

On the record before me, while many causes of action are pleaded,
the evidence does not go beyond Ms. Dixon 's assertions - allegations

of wrongdoing contained in conclusory statements, hearsay and opinions expressed by her, often without the source for her belief stated. As well, I must consider the full record, which informs me that, thus far, Ms. Dixon's complaints have not been substantiated; indeed the WDHP report upheld a complaint against her, although I recognize that there is a grievance outstanding.

225. Accordingly, it is important that I have counsel that has the confidence, legal and social standing, and resources to challenge the spurious, stronghanded, and sharp practices taken by the Crown and its representatives.

226. I am aware that my matter is of utmost importance to ALOC, as evidence in its actions since the commencement of my civil action, accordingly, ALOC:

- (a) posted on its website, for immediate release, under the bolded and underlined heading “**Toronto Star Statement Re Legal Proceedings against ALOC, AMAPCEO & OPS**” that “*ALOC strongly denies Ms. Dixon’s assertions in her lawsuit that it has discriminated against Ms. Dixon, and will defend itself before the courts;*”
- (b) retained Goldblatt to represent ALOC on my civil matter. Goldblatt is no average law firm. It is a “highly respected law firm distinguished by excellence of [its] work.” Their “lawyers have been involved in numerous ground breaking cases before tribunals of all kinds and at all levels of the courts, including the Supreme Court of Canada;”

- (c) retained Goldblatt which has five research lawyers “who are dedicated exclusively to research and litigation support” and “work closely with other lawyers, helping to develop innovative strategies and novel legal arguments;”
- (d) communicated to this Court, via its lawyer Goldblatt, that although ALOC does not intend to (and cannot) take a position on the Crown’s motion to dismiss my action, that ALOC “reserves its rights to move to dismiss any new cause of action advanced by Ms. Dixon’s amended claim as statute-barred;
- (e) throughout my civil proceedings has paid for at least two lawyers to represent ALOC on my matter; and
- (f) has paid Goldblatt out of membership funds, to attend on motions not pertaining to ALOC, for example, my former lawyer’s motion to get off the record in representing me; my former lawyer’s motion to sever Hentrose’s and my lawsuit; and my motion for the reinstatement of my pay and benefits, which Paul Schabas J. noted in his Endorsement dated September 23, 2019, and appears to have used against me, stating: “although ALOC had counsel present, she made no submissions and ALOC took no position on Ms. Dixon’s motion.”

Attached as **Exhibit “PPP”** is a copy of Goldblatt online information about the firm and its research group.

227. I am aware that Goldblatt are aware that the labour and employment laws and procedures are outdated. For example, Marisa Pollock who “represented” me on my Grievances, has laughingly indicated to me that there are no rules in grievance proceedings, and Steven Barrett has suggested that labour and employment laws are anachronistic. This has certainly been my experience and that of many other Black female and racialized employees, working in a predominantly non-Black and non-racialized workplace, where we are subjected to racism and misogynoir based on our race, ancestry, colour, and sex.

228. ALOC’s former President, Earl Dumitru, mocked the legal representation I was receiving from my lawyer — this lack of respect for my counsel contributed to an ambivalence and casualness regarding the racial abuse the Crown, ALOC and their employees/members, servants, and representatives were/are subjecting me to. Accordingly, it is important that I retain competent, zealous, and fearless counsel to represent me. Without funding and the Court’s assistance in assigning counsel to my matter, I will not be able to do so.

229. I am not able to bare the financial burden of carry this litigation forwarded. Moreover, it not a cost that should be born by me, as a Black female employee who has been subjected to longstanding and debilitating anti-Black racism, misogynoir, and white supremacy in the OPS, which have been concealed, engaged in, protected, abetted, enabled, gaslighted and defended by my employer, the Crown, and my association, ALOC. Not only is this differential conduct by the Crown and ALOC inequitable, but it is also anti-Black, white supremacist, and racist.

230. Since I first raised my experiences of OPS staff and management subjecting me to anti-Black racism, around 2008, I have not received meaningful support from ALOC and the Crown. Instead, both have engaged in, reified, gaslighted, protected, abetted, and defended anti-Black and white supremacist conduct against me. As a result, I have had to retain lawyers, with my own funds, to advocate for me.

231. I have had take money earmarked for the necessities of life, personal care, entertainment, travel, savings and investments to assert my right to be free from racial discrimination, racial harassment, tortious conduct etc., including having to refinance my home a few times, and relying on a line of credit and credit cards that accrue high interest rates, thereby falling deeper and deeper into unsustainable debt, which has negative impacted my psychological, physical, familial and social wellbeing.

Unsuccessful Attempts to Secure Funding

232. Due to anti-Black racism, which includes marginalization from social and economic power, Black organizations and community members are not able to fund or contribute to this litigation.

233. My former co-plaintiff and I attempted to secure sources of funding and support from different organizations, including:

- (a) Specialty companies/third-party plaintiff financing organizations who finance litigation upfront in return for a percentage of any future damage amounts awarded.

- (b) Federation of Black Canadians (FBC) which “is a national, non-profit organization [that] advances the social, economic, political, and cultural interests of Canadians of African descent.”
- (c) Black Legal Action Centre (BLAC) which is a not-for-profit corporation that “provides free legal services to low- and no-income Ontarians who are facing a legal issue directly related to anti-Black racism [and] engages in test case litigation, law reform and community development to improve the laws the affect low-income people.”
- (d) Canadian Association of Black Lawyers (CABL) which “is a nation network of law professionals and individuals committed to reinvesting in the community.”
- (e) Federation of Asian Canadian Lawyers (FACL) which “is a diverse coalition of Asian Canadian legal professionals who promote equity, justice, and opportunity for Asian Canadian legal professionals and the broader community.”
- (f) OHRC which “was established in 1961 as an arm’s length agency of the Ontario government to prevent discrimination and to promote and advance human rights in Ontario.” The OHRC has unique powers under the Code, which includes fact finding, making its own application/complaint directly to the HRTO, intervening in other

applications before the HRTO, and taking “part in cases before other administrative tribunals and courts.”

- (g) Applied for test case funding under Legal Aid Ontario’s *Test Case Funding Program*.
- (h) Applied for funding under the Canadian government’s *Court Challenges Program* for the development of test case funding and for litigation funding.
- (i) Black Lives Matter
- (j) Canadian Labour Congress
- (k) Coalition Against White Supremacy and Islamophobia
- (l) Coalition of Black Trade Unions (CBTU)
- (m) Expose Toronto Committee
- (n) Federation of Black Canadians (FBC)
- (o) Ontario Public Interest Research Group
- (p) Urban Alliance on Race Relations
- (q) Chaplains Office of Canada

Attached as **Exhibit “QQQ”** is a copy of Jean-Marie Dixon and Hentrose Nelson’s Application for Test Case Funding submitted to Legal Aid Ontario in 2019.

Attached as Exhibit **“RRR”** is a copy of Jean-Marie Dixon and Hentrose Nelson’s Court Challenges Program Application for funding submitted in 2019.

234. Additionally, I have worked on my own, and with labour groups and community activists to bring attention to and address anti-Black racism in the OPS, including:

- (a) Participating in a Toronto Star investigation, which led to the Huggins Report on anti-Black racism in the OPS and national media coverage (March 2019).
- (b) Collaborated with groups and individuals interested in addressing discrimination, harassment, and racial/sexual violence in the workplace.
- (c) Organized and financed a public meeting with Michael Coteau, former Minister responsible for the ARD, to discuss anti-Black racism and racial discrimination in the OPS (which resulted in a moratorium on the suspension and firing of Black and racialized employees (January 2018).
- (d) Organized a public meeting with Akwatu Khenti, Assistant Deputy Minister of the ARD, to discuss anti-Black racism in the OPS (December 2017).
- (e) Attended a rally at the Ministry of Immigration and Citizenship in North York to bring attention to the issue of anti-Black racism and racial discrimination and harassment in the OPS (September 2017).
- (f) Sent several emails to the Head of the OPS and ALOC regarding anti-Black racism, racism, and white supremacy in the OPS.

- (g) Attended FBC's inaugural National Black Canadian Summit to bring attention to anti-Black racism in the OPS (December 2017).
- (h) Attended in-person three of the ten ARD public community meetings/townhalls (Toronto, Scarborough, Thunder Bay) held by the Ontario government to hear the public's perspectives in fighting systemic racism (2016).
- (i) Met with MPP Laura Mae Lindo to discuss anti-Black racism, and racial and sexual/gender violence in policing and in the OPS (2019).
- (j) Met with the OHRC to discuss anti-Black racism in the OPS (2019).
- (k) Attended, contributed to, and participated in community events in support of employment equity and racial justice.
- (l) Using my Twitter Account to inform the public of anti-Black racism, racism in general, and racial and sexual violence in the OPS and other workplaces/spaces, and to effect positive change.

235. The Crown and ALOC are aware that anti-Black racism, racism in general, misogynoir, racial violence, and white supremacy are longstanding, prevalent, and systemic in the OPS, other Ontario government organizations, and the legal profession, yet they have refused to substantively address these pernicious and damaging issues.

236. I make this Affidavit for my legal proceedings and for no improper purpose.

AFFIRMED before me at the)
City of Toronto,)
in the Province of Ontario,)
on the 13th of May 2022)

Commissioner for Taking Affidavits

JEAN-MARIE DIXON