

## **NOTICE OF PROPOSED SETTLEMENT IN THE CANADIAN ARMED FORCES/DEPARTMENT OF NATIONAL DEFENCE SEXUAL MISCONDUCT CLASS ACTION (LONG FORM)**

Are you a current or former member of the Canadian Armed Forces, or a current or former employee of the Department of National Defence or Staff of the Non-Public Funds, Canadian Forces? Have you experienced sexual harassment, sexual assault or discrimination based on your sex, gender, gender identity or sexual orientation in connection with your military service or DND or SNPF employment? If so, this lawsuit may affect you. Please read this notice carefully.

**The Federal Court authorized this notice. This is not a solicitation from a lawyer.**

While not admitting liability, the Government of Canada (“**Canada**”) has agreed to a settlement regarding class action lawsuits for current and former members the Canadian Armed Forces (“**CAF**”), and current and former employees of the Department of National Defence (“**DND**”) and/or Staff of the Non-Public Funds, Canadian Forces (“**SNPF**”) who experienced sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation (“**Sexual Misconduct**”) in connection with their military service and/or employment with the DND/SNPF. Seven former members of the CAF (the “**Representative Plaintiffs**”) initiated class action lawsuits.

All current or former CAF members, employees of DND, and/or SNPF who have experienced Sexual Misconduct may be able to receive compensation under the proposed settlement if it is approved by the Court. To be eligible for a payment, you must be a member of either the “CAF Class” or the “DND/SNPF Class”.

“**CAF Class**” is defined as:

All current or former CAF members who experienced Sexual Misconduct up to and including the Approval Date who have not opted out of the Heyder or Beattie Class Actions.

“**DND/SNPF Class**” is defined as:

All current and former employees of DND and of the Staff of the Non-Public Funds, Canadian Forces, who experienced Sexual Misconduct up to and including the Approval Date who have not Opted Out of the Heyder or Beattie Class Actions.

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A hearing to determine if the proposed settlement is fair, reasonable and in the best interests of the Class Members is scheduled to take place in Ottawa on September 19 and 20, 2019.

### What does the proposed settlement provide?

If approved, the settlement provides:

- a) financial compensation for certain Class Members who experienced Sexual Misconduct connected with their military service and/or employment for DND/SNPF;
- b) the option to participate in a restorative engagement program for survivors to share their experiences of Sexual Misconduct with senior CAF or DND representatives;
- c) changes to CAF policies and other measures addressing Sexual Misconduct in the CAF; and
- d) updates to Veterans Affairs Canada (VAC) policies related to eligibility for disability payments and reconsideration of claims by a dedicated unit of employees established to assist with these claims.

If the Federal Court approves the proposed settlement, you may make a claim for financial compensation, and you may seek to participate in the restorative engagement program. To do so, you will have to complete an **Individual Application/Claim Form** and send it to the claims administrator during the claims period. More information on how to make a claim and how to request restorative engagement will be available if the proposed settlement is approved.

If the proposed settlement is approved by the Court, Class Members can also “**Opt Out**” if they do not want to be bound by the terms of the settlement. Information about opting out is set out below.

### What are your legal rights and options?

<b>1. Do nothing</b>	If you support the settlement agreement, you do not have to do anything right now. Please note that by doing nothing, you will give up any right to object to the settlement and you will give up the right to sue Canada or others on your own or bring a Human Rights complaint in relation to any sexual harassment, sexual assault or discrimination you experienced while serving in the military or as a DND/SNPF employee.
<b>2. Opt Out</b>	If you don't want to be bound by the settlement if it is approved by the Court, you can Opt Out of the class action, at that time. More information about how and when to Opt Out will be provided when and if the settlement is approved. You will have 90 days from the date the Court issues an order approving the settlement to make your decision. If you Opt Out, you will not be entitled to any financial compensation from

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	<p>the settlement, but you will keep your right to sue Canada or others on your own or bring a Human Rights complaint in relation to any sexual harassment, sexual assault or discrimination you experienced while serving in the military or as a DND/SNPF employee, subject to any time or other legal limitations applying to your claim.</p> <p>If you have commenced a legal proceeding against Canada for damages resulting from the Sexual Misconduct covered by this settlement and you do not discontinue it before the Opt Out Date fixed by the Court, you will be automatically deemed to have Opted Out of the Settlement and you will not be able to claim compensation.</p> <p>Class Members who died before March 15, 2019 are not eligible for compensation under the settlement. Estates of Class Members who died before March 15, 2019 that wish to seek compensation should seek legal advice promptly regarding their options.</p>
<p><b>3. Submit a statement of support</b></p>	<p>If you do not wish to attend the hearing, but you would like to explain why you support the settlement, you can complete a <b>Participation Form</b>. This form will include your name, address, and the reasons why you support the settlement. The Participation Form can be found at <a href="http://www.caf-dnd-sexualmisconductclassaction.com">www.caf-dnd-sexualmisconductclassaction.com</a>. You must mail this Form to <b>CAF DND Sexual Misconduct Class Action c/o Deloitte</b>, Bay Adelaide Centre, East Tower, 8 Adelaide Street West, Toronto, ON M5H 0A9, or email it to <a href="mailto:cafdndmisconduct@deloitte.ca">cafdndmisconduct@deloitte.ca</a> and it must be received or postmarked no later than <b>August 30, 2019</b>.</p>
<p><b>4. Object to the proposed settlement</b></p>	<p>If you do not wish to attend the hearing, but you would like to explain why you object to the settlement, you can also complete a <b>Participation Form</b>. This form will include your name, address, and the reasons why you do not support the settlement. The Participation Form can be found at <a href="http://www.caf-dnd-sexualmisconductclassaction.com">www.caf-dnd-sexualmisconductclassaction.com</a>. You must mail this Form to <b>CAF DND Sexual Misconduct Class Action c/o Deloitte</b>, Bay Adelaide Centre, East Tower, 8 Adelaide Street West, Toronto, ON M5H 0A9, or email it to <a href="mailto:cafdndmisconduct@deloitte.ca">cafdndmisconduct@deloitte.ca</a> and it must be received or postmarked no later than <b>August 30, 2019</b>.</p>
<p><b>5. Participate at the settlement hearing</b></p>	<p>You can attend the approval hearing at the <b>Federal Court in Ottawa, 90 Sparks Street, on September 19 and 20, 2019 at 10:00 a.m.</b> to participate in the proceeding and voice your support or objection to the proposed settlement in person. The Court will decide if you will be permitted to make oral submissions at the time of the hearing. However, in order to be eligible to participate, you must have completed and submitted the participation form setting out your reasons for supporting or objecting to the proposed settlement.</p>

**What kind of compensation am I eligible for?**

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Your payment will depend on the type of Sexual Misconduct you experienced in connection with your military service and/or DND/SNPF employment and an assessment of the harm you suffered. It will also depend on how many Class Members submit claims. The range of individual compensation for most Class Members is between five thousand dollars (\$5,000) and fifty-five thousand dollars (\$55,000). Class Members who experienced exceptional harm (and in the case of those who have previously been denied VAC benefits in respect of that harm, and whose application for reconsideration is also denied), may be eligible for amounts up to one hundred and fifty-five thousand dollars (\$155,000). Details are explained in the proposed settlement agreement. A copy of the agreement is available here: [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com).

## WHAT THIS NOTICE CONTAINS

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## Basic information

### 1. Why did I get this notice?

While not admitting liability, Canada has agreed to a settlement of proposed class action lawsuits commenced by former members of the CAF alleging sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation (Sexual Misconduct) in connection with their military service. The Parties have agreed to include the DND/SNPF Class Members to ensure that certain persons working alongside the CAF Class in the Military Workplace are eligible for compensation through this settlement.

The Federal Court authorized this notice to let you know that there is a court hearing scheduled to approve this settlement. If you have received this notice, you may have legal rights and interests that are affected by the proposed settlement. This notice explains what is happening, and what actions you can choose to take.

### 2. What is a class action?

In a class action, one or more people called “**Representative Plaintiffs**” sue on behalf of people who have similar claims. All of the people who have similar claims are called a “**Class**” or “**Class Members**.” The court resolves the issues for everyone affected, except for those who exclude themselves from the lawsuits by Opting Out.

### 3. What is this class action about?

The proposed class actions relate to CAF members and DND/SNPF employees who have experienced sexual harassment, sexual assault or discrimination based on sex, gender, gender identity or sexual orientation in connection with their military service or employment for DND/SNPF. Canada has not admitted liability, however, it has agreed to a settlement.

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## 4. Why is there a proposed settlement?

The Representative Plaintiffs and Canada have agreed to a proposed settlement. By agreeing to the proposed settlement, the parties avoid the costs and uncertainty of a trial and delays in obtaining a judgment, and Class Members receive financial compensation and access a restorative engagement program, which are described in this notice and the settlement agreement. In this case, it also means that the Class Members will not need to testify in court. The Representative Plaintiffs and their lawyers believe that the proposed settlement is in the best interests of all Class Members.

## Who is included in the law suit and proposed settlement?

## 5. Who are the Representative Plaintiffs in this class action?

The four former members of the CAF that initiated the lawsuits in the Federal Court are Sherry Heyder, Amy Graham, Nadine Schultz-Nielsen and Larry Beattie. You can contact them through the class counsel. The contact information for Class Counsel is available here: [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com). Other similar class actions were filed in Nova Scotia, Quebec, and British Columbia. The plaintiffs in these class actions are Glynis Rogers, Alexandre Tessier, and Nicola Peffers.

## 6. Who else is included in the Proposed Settlement?

The proposed settlement includes the members of the CAF Class who are defined as follows:

*All current or former CAF Members who experienced Sexual Misconduct up to and including the Approval Date who have not opted out of the Heyder or Beattie Class Actions.*

CAF Members include officers and non-commissioned members of all components of the Canadian Armed Forces (Regular and Reserve), and any individual who served in any branch, corps, service or another group within or forming part of, the Sovereign's armed or military forces for Canada.

For greater clarity, "member" includes a recruit undergoing basic training and "Reserve Force" includes the Primary Reserve, Cadet Organizations Administration and Training Service (COATS), Canadian Rangers and Supplementary Reserve.

The proposed settlement also includes public service employees of the Department of National Defence and Staff of Non-Public Funds. Members of the DND/SNPF Class are defined as follows:

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*All current and former employees of DND and of the Staff of the Non-Public Funds, Canadian Forces, who experienced Sexual Misconduct up to and including the Approval Date who have not Opted Out of the Heyder or Beattie Class Actions.*

For greater clarity, “employee” includes members of the federal public service of all tenures including indeterminate, determinate, casual, and students but does not include members of the federal public service in an employment relationship with other federal departments or agencies that work with the CAF or DND. If the settlement is approved, all Class Members except those who validly Opt Out of the settlement will be bound by the proposed settlement and will be covered by the releases in the proposed settlement.

## **7. What if I don’t want to be included in the lawsuit or settlement?**

If you do not want to be bound by the settlement if it is approved, you will have an opportunity to “**Opt Out**” after the Court has decided whether to approve the Settlement. The Parties have agreed that the Opt-Out Period will be 90 days from the Approval Date (the date the court issues an order approving the settlement).

If you Opt Out, you will not be entitled to any financial compensation from the settlement, but you will keep your right to sue Canada or others on your own or bring a Human Rights complaint about the same legal claims in the lawsuit, subject to any time or other legal limitations applying to your claim.

You may have already commenced a legal proceeding against Canada for damages resulting from Sexual Misconduct suffered in connection with your military service or DND/SNPF employment. If you do not discontinue it on or before the Opt-Out Deadline fixed by the Court when the settlement is approved, you will automatically be deemed to have Opted Out of the settlement.

## **8. What if I’m not sure whether I’m included in the lawsuits or proposed settlement?**

There are people who can help you understand your legal rights and next steps. If you are not sure whether you are included in the proposed settlement, you may call 1-888-626-2611 or visit [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com) or email: [cafdndmisconduct@deloitte.ca](mailto:cafdndmisconduct@deloitte.ca).

## **Proposed settlement benefits**

## **9. What does the proposed settlement provide?**

If approved, the settlement provides:

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- a) financial compensation for certain Class Members who experienced Sexual Misconduct connected with their military service and/or employment for DND/SNPF;
- b) the option to participate in a restorative engagement program for survivors to share their experiences of Sexual Misconduct with senior CAF or DND representatives;
- c) changes to CAF policies and other measures addressing Sexual Misconduct in the CAF; and
- d) changes to Veterans Affairs Canada (VAC) policies related to eligibility for disability payments and reconsideration of claims by a dedicated unit of employees established to assist with these claims.

### Summary of Compensation Terms

Canada has agreed to pay a maximum of eight hundred million dollars (\$800 million) in respect of the CAF Class Members (“**Aggregate Compensation Cap – CAF Class**”) and a maximum of one hundred million dollars (\$100 million) in respect of the DND/SNPF Class Members (“**Aggregate Compensation Cap – DND/SNPF Class**”) who are eligible for compensation, as follows (the “**Individual Payments**”):

Category	Compensation Level	
<p>A. Sexual harassment, gender-based and LGBTQ2+ based discrimination</p> <p>limited to women and those who identify as LGBTQ2+</p> <p>limited to incidents occurring after April 17, 1985</p>	\$5,000	
<p>B1. Targeted or ongoing or severe sexual harassment and/or sexual assault in the form of unwanted sexual touching</p>	Low Harm	\$5,000
	Medium Harm	\$10,000
	High Harm	\$20,000
<p>B2. Sexual assault in the form of sexual attack or sexual activity where no consent or unable to consent</p>	Low Harm	\$30,000
	Medium Harm	\$40,000
	High Harm	\$50,000
<p>C. Enhanced Payment: Class Members who suffer or suffered from PTSD or other diagnosed mental injuries, or physical injuries arising from sexual assault or sexual harassment for which, for CAF Members, VAC benefits have been applied for and</p>	Low Harm	\$50,000
	Medium Harm	\$75,000



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denied and/or have sought reconsideration and been denied.	High Harm	\$100,000
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More detailed information about Class Member eligibility, the harm thresholds and limitations on eligibility can be found in the proposed settlement agreement, which is available here: [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com).

If the total amount of payments to CAF Class Members is less than two hundred million dollars (\$200 million), CAF Class Members may receive up to an additional 15% of the amounts payable to each person. If the total payable to CAF Class Members is still less than \$200 million, then Canada will make available an amount equal to the difference so long as it does not exceed twenty five million dollars (\$25 million) which will be used for collective measures aimed at increasing awareness and culture change as agreed by the Parties. If the total amount of payments to CAF Class Members exceeds \$200 million, Canada will make available two-million dollars (\$2 million) which can be used for collective measures aimed at increasing awareness and culture change as agreed by the Parties. The total amount of individual payments to CAF Class Members cannot exceed \$800 million. If the total amount of payments to CAF Class Members exceeds \$800 million, the individual payments to CAF Class Members will be reduced on a *pro rata* basis so that the total amount of payments to CAF Class Members does not exceed \$800 million.

If the total amount of payments to DND/SNPF Class Members is less than twenty-five million dollars (\$25 million), DND/SNPF Class members may receive up to an additional 15% of the amounts payable to each person. If the total amount of payments to DND/SNPF Class Members exceeds \$100 million, the individual payments to DND/SNPF Class Members will be reduced on a *pro rata* basis so that the total amount of payments to DND/SNPF Class Members does not exceed \$100 million.

If either the total amount of payments to the CAF Class or the DND/SNPF Class exceeds the funds available for each group, but the total amount of payments to the other Class does not exceed the funds available, funds may be transferred for the benefit of the other Class, provided that this does not deprive that Class of the 15% increase to each Individual Payment.

Canada will only pay the amounts assessed as owing to Class Members and the amount agreed upon for collective measures.

### Restorative Engagement

Class members may also request to participate in a program of restorative engagement that has been designed to allow Class Members to share their experiences of sexual harassment, sexual assault, and/or discrimination based on gender or LGBTQ2+ status with senior CAF and/or DND representatives in a safe and respectful environment. The aim of this process is to allow Class Members to be heard and acknowledged, to contribute to culture change by increasing awareness and understanding of the experiences of Class Members and begin the process of restoring the relationship between Class Members and the CAF and DND. This program will be developed by the Sexual Misconduct Response

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Centre, in consultation with external experts. Participation in restorative engagement will be completely voluntary and the program will not include the involvement of perpetrators of the Sexual Misconduct.

## CAF Measures

The settlement also includes several policy measures and initiatives intended to provide support and increase awareness around the issue of Sexual Misconduct within the CAF.

These include consultations with plaintiff representatives on support for survivors of Sexual Misconduct, as well as efforts to increase gender representation and diversity in the CAF. Canada has agreed to conduct a comprehensive external review to assess the progress made by the CAF in addressing issues of Sexual Misconduct through Operation HONOUR and the Sexual Misconduct Response Centre.

More details are in a document called the proposed settlement agreement, which is available at [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com).

## 10. How will the lawyers be paid?

Class Counsel will not be paid until the Federal Court declares that the proposed legal fees are fair and reasonable.

Class Counsel will ask for approval of fees in the amount of \$26.56 million, plus repayment of reasonable disbursements and applicable tax. The Federal Court will decide the value of fees and disbursements to award. These amounts will be paid directly by Canada and will not be deducted from any amounts that eligible Class Members may receive.

## Who are the lawyers representing you?

### 11. Who are the lawyers for the Plaintiffs?

The lawyers for the Plaintiffs are:

- Koskie Minsky LLP of Toronto, Ontario;
- Raven, Cameron, Ballantyne & Yazbeck LLP of Ottawa, Ontario;
- Wagners of Halifax, Nova Scotia;
- Acheson Sweeney Foley Sahota LLP of Victoria, British Columbia; and
- Quessy Henry St-Hilaire, avocats of Quebec City, Quebec.

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You are welcome to seek legal advice from these lawyers concerning the settlement and your claim – at any time and at no cost to you. If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense to appear in court for you.

### What are my legal options?

#### 12. How do I tell the court if I support or object to the proposed settlement?

There are three ways to voice your opinion about the proposed settlement:

<p>1. <b>Submit a statement of support</b></p>	<p>If you do not wish to attend the hearing, but you would like to explain why you support the settlement, you can complete a <b>Participation Form</b>. This form will include:</p> <ul style="list-style-type: none"> <li>• Your name, address, and telephone number;</li> <li>• A statement saying that you support the proposed settlement;</li> <li>• The reasons you support the proposed settlement, along with any supporting materials; and</li> <li>• Your signature.</li> </ul> <p>The Participation Form can be found at <a href="http://www.caf-dnd-sexualmisconductclassaction.com">www.caf-dnd-sexualmisconductclassaction.com</a>. You must mail this Form to <b>CAF DND Sexual Misconduct Class Action c/o Deloitte</b>, Bay Adelaide Centre, East Tower, 8 Adelaide Street West, Toronto, ON M5H 0A9, or email it to <a href="mailto:cafdndmisconduct@deloitte.ca">cafdndmisconduct@deloitte.ca</a> and it must be received or postmarked no later than <b>August 30, 2019</b>.</p>
<p>2. <b>Object to the proposed settlement</b></p>	<p>If you do not wish to attend the hearing, but you would like to object to the settlement, you can also complete a <b>Participation Form</b>. This form will include:</p> <ul style="list-style-type: none"> <li>• Your name, address, and telephone number;</li> <li>• A statement saying that you object to the proposed settlement;</li> <li>• The reasons you object to the proposed settlement, along with any supporting materials; and</li> <li>• Your signature.</li> </ul> <p>The Participation Form can be found at <a href="http://www.caf-dnd-sexualmisconductclassaction.com">www.caf-dnd-sexualmisconductclassaction.com</a>. You must mail this Form to <b>CAF DND Sexual Misconduct Class Action c/o Deloitte</b>, Bay Adelaide Centre, East Tower, 8 Adelaide Street West, Toronto, ON M5H 0A9, or email it to <a href="mailto:cafdndmisconduct@deloitte.ca">cafdndmisconduct@deloitte.ca</a> and it must be received or postmarked no later than <b>August 30, 2019</b>.</p>
<p>3. <b>Participate at the settlement</b></p>	<p>You can attend the approval hearing at the <b>Federal Court in Ottawa, 90 Sparks Street, on September 19 and 20, 2019 at 10:00 a.m.</b> to participate in the proceeding</p>

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<b>hearing</b>	and voice your support or objection to the proposed settlement in person. The Court will decide if you will be permitted to make oral submissions at the time of the hearing. However, in order to be eligible to participate, you must have completed and submitted the Participation Form setting out your reasons for supporting or objecting to the proposed settlement.
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### **What are the details of the approval hearing?**

The Federal Court will hold a hearing to decide whether to approve the proposed settlement and the request for Plaintiffs' counsel's legal fees, disbursements and taxes (the "Approval Hearing").

#### **13. When and where will the court decide whether to approve the proposed settlement?**

The Approval Hearing will take place in Ottawa, Ontario at the Federal Court located at 90 Sparks, Street, on September 19 and 20, 2019 at 10:00 a.m.

The hearing date may be moved to different dates or times without additional notice. Please check [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com) or call 1-888-626-2611 in advance if you are planning to attend.

At the hearing, the Federal Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will consider them and will listen to people who have filed a participation form and asked to speak at the hearing.

After the hearing, the Court will decide whether to approve the proposed settlement and Class Counsel's legal fees. We do not know how long these decisions will take.

#### **14. Do I have to attend the hearing?**

No. Class Counsel will answer questions from the Court. However, you or your own lawyer are welcome to participate at your own expense – either to show your support for or to object to the proposed settlement. If you send a participation form, you do not have to come to the Court to talk about it. If you mailed your written participation form on time, the Court will consider it. You may also have your own lawyer attend at your own expense, but it is not necessary.

#### **15. May I speak at the Approval Hearing?**

Yes, you may ask the Court for permission to speak at the Approval Hearing if you wish to support or object to the proposed settlement. If you'd like to participate, you must submit a Participation Form,

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indicating you wish to speak. The Participation Form can be found at [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com).

### **16. What if I do nothing?**

If you do nothing, the Approval Hearing will proceed, and the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class without your views on the matter. If the settlement is approved, you will have an opportunity to Opt Out at that time.

## **GETTING MORE INFORMATION**

### **17. How do I get more information?**

This notice summarizes the proposed settlement. More details are in the settlement agreement. You can get a copy of the agreement at [www.caf-dnd-sexualmisconductclassaction.com](http://www.caf-dnd-sexualmisconductclassaction.com). You can send your questions to **CAF DND Sexual Misconduct Class Action c/o Deloitte**, Bay Adelaide Centre, East Tower, 8 Adelaide Street West, Toronto, ON M5H 0A9, or by email at [cafdndmisconduct@deloitte.ca](mailto:cafdndmisconduct@deloitte.ca). You may also call the toll-free number 1-833-346-6178.

You may also seek legal advice from the lawyers for the plaintiffs concerning the settlement and your claim at any time at no cost to you.