

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

MÉTIS NATIONAL COUNCIL SECRETARIAT INC.

Plaintiff

and

CLÉMENT CHARTIER, DAVID CHARTRAND, MANITOBA METIS FEDERATION INC.
carrying on business as MANITOBA MÉTIS FEDERATION, WENDA WATTEYNE, STORM
RUSSELL, KRISTINA MONETTE, MARC LECLAIR, LECLAIR INFOCOM INC.,
CELESTE MCKAY, CELESTE MCKAY CONSULTING INC., JOHN WEINSTEIN, PUBLIC
POLICY NEXUS GROUP INC., KATHY HODGSON-SMITH, INFINITY RESEARCH
DEVELOPMENT AND DESIGN INC., WEI XIE and SYSTEMWAY CONSULTING, INC.

Defendants

**STATEMENT OF DEFENCE
OF MANITOBA METIS FEDERATION INC. AND DAVID CHARTRAND AND
COUNTERCLAIM OF DAVID CHARTRAND**

1. The Defendants Manitoba Metis Federation Inc. (“**MMF Inc.**”) and David Chartrand deny all of the allegations in the Statement of Claim, except as expressly admitted in this Statement of Defence.
2. MMF Inc. is the legal and administrative arm of the Manitoba Métis Federation (the “**MMF**”). The MMF is the democratically elected self-government and representative body of the Manitoba Métis, also known as the Red River Métis. MMF Inc. is a part of and included within the MMF. All references to the “Manitoba Métis Federation” or the “MMF” in this Statement of Defence include MMF Inc., unless expressly stated otherwise.
3. David Chartrand is the President of the MMF and has been for 25 years.

OVERVIEW

4. This action does not advance any legitimate legal complaint. Rather, it is the latest salvo from the Métis National Council (the “**MNC**”) against the MMF and David Chartrand in a broader political dispute over the representation of the Métis people. It was commenced to advance the political agenda of the MNC and its current leadership – that agenda being to secure power and influence amongst Métis people in Canada and to erode and ultimately usurp the MMF’s position as the representative body of the Red River Métis.

5. The MMF was one of three founding members of the MNC. It was a Governing Member of the MNC and its central pillar for over three decades. The MMF and the MNC were completely aligned on a set of core principles and objectives: a strong Métis Nation, an enduring distinct national identity, a national Homeland in Western Canada rooted in the Red River, and the integrity of citizenship in the Métis Nation.

6. In 2002, the MNC and its members unanimously adopted the following definition of “Métis”: “a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation Ancestry and who is accepted by the Métis Nation” (the “**National Definition**”). The National Definition is based upon, among other things, an ancestral connection to the Métis Homeland.

7. After the adoption of the National Definition a disagreement emerged over the Métis National Definition. In particular, the Métis Nation of Ontario (the “**MNO**”), refused to apply the National Definition for the purposes of registering citizens. In 2017, that disagreement came to a

head, as the MNO sought to adopt a broader, pan-Indigenous definition based on self-identification and a connection to territories outside the Métis Homeland.

8. This disagreement quickly devolved into a bitter battle over fundamental questions about what it means to be Métis and the criteria for recognizing citizens of the Métis Nation. That fight continued for over three years and constantly threatened to derail the important objectives that Clément Chartier, as MNC President, and David Chartrand, as MNC Vice-President, were trying to accomplish for the entire Métis Nation.

9. The dispute over the National Definition and the criteria for citizenship was of utmost concern to the citizens of the MMF. At the MMF's 2019 Annual General Assembly, the MMF citizenship passed a resolution directing the MMF to withdraw from the MNC should the MNO fail to adhere to the National Definition.

10. By September 2021, it became clear that the MNO would continue to be a member of the MNC and not be required to adhere to the National Definition. The MMF and the MNC were no longer aligned on a critical issue of Métis citizenship and identity. As a result, on or around September 29, 2021, the MMF withdrew from the MNC.

11. On September 30, 2021, the MNC elected a new president, Cassidy Caron, and embraced the more expansive definition of "Métis" advanced by the MNO. Since her election, the MNC has continued to allow the MNO to grant memberships to individuals who do not meet the National Definition. The MNO has instead granted memberships on the basis of "new historic Métis communities".

12. The MMF represents the Manitoba Métis Community, also known as the Red River Métis, regardless of where its citizens currently reside. This includes Red River Métis citizens living inside and outside of Manitoba and Canada.
13. As a result of the MMF's withdrawal, the MNC is not representative of the Métis Nation. It does not represent the rights and interests of the MMF and the Manitoba Métis.
14. For months, the MNC refused to acknowledge the MMF's withdrawal from the MNC. During that time, the MNC engaged outside litigation counsel to conduct a "comprehensive review" of the outgoing administration in which David Chartrand served as Vice-President and Minister of Finance and Administration. This action is the sum total of those concentrated efforts: disjointed allegations arising from far-ranging complaints contrived into an alleged "scheme".
15. There is no "scheme". The MNC's scandalous, vexatious and baseless allegations are a transparent attempt by the MNC's newly elected administration to delegitimize and discredit the MMF and President David Chartrand in order to preserve and enhance their own standing and influence.
16. In a video uploaded to the Internet by the MNC on January 27, 2022, the current President of the MNC, Cassidy Caron, addressed the Métis Nation as a whole and announced the commencement of the action.
17. In her six-minute address, President Caron described herself as a "Métis patriot" with an intention to "restore the MNC to an institution our people can respect and have faith in". She claims to have been "entrusted with the immense job of reversing what [she] believe[s] is

damage that has been done to so many by so few”. She says the “audit” and review conducted by counsel uncovered “very concerning governance and financial practices and policies or, rather, an apparent lack thereof” that has “tarnished the reputation of the MNC”. She says she was elected to restore “honour” and “integrity” to the MNC. She characterizes this action as a means to “heal” and “reunify” the Métis Nation and to “move forward together”. She says that her audience will “surely be hearing about the contents” of the Statement of Claim, which was simultaneously provided to national media by the MNC.

18. Caron’s video is revealing: the MNC is misusing the overburdened civil justice system as a stage for political theatre. This action is an abuse of the court’s process that should not be permitted or condoned. The claims against the MMF and President David Chartrand are without merit, and this action should be dismissed with costs.

THE PARTIES

The Manitoba Métis and the Manitoba Métis Federation

19. The Métis are an “aboriginal people of Canada” within the meaning of section 35 of the *Constitution Act, 1982*.

20. The Métis Nation refers to the historic collective of the Métis people who emerged from and lived in the historic Northwest. Their territory is commonly referred to as the Métis Nation Homeland, which was located mainly in the prairies and now forms the provinces of Manitoba, Saskatchewan, and Alberta and extends into a contiguous part of British Columbia, Ontario, the Northwest Territories and the United States of America.

21. The Manitoba Métis, also known as the Red River Métis, are integral to the Métis Nation.

22. The Manitoba Métis have a long history of asserting and protecting their rights and identity as a self-governed people. On June 19, 1816, the Manitoba Métis flew the flag of the Métis Nation and declared a new nation after their victory at the battle of Frog Plain. In 1870, the Manitoba Métis founded the province of Manitoba. Shortly thereafter, and in response to government military action, many Manitoba Métis dispersed beyond Manitoba's borders within the Homeland in search of peace and security.

23. The claims, rights, and interests of the Manitoba Métis are represented by a democratically elected self-government, the MMF. The MMF engages with third parties, including governments at all levels, on behalf of the Manitoba Métis, many of whom reside outside of Manitoba and beyond Canada's national borders. The MMF also serves Métis that are entitled to citizenship through its various community and support programs made available to the estimated 120,000 such Métis that reside in Manitoba.

24. The MMF is the democratic representative body of the Manitoba Métis. The MMF is mandated to provide responsible and accountable self-government through its governance systems and institutions as set out in the Manitoba Métis Constitution, including applicable laws, policies, procedures, practices, customs, and traditions, as amended from time to time. The MMF includes within it MMF Inc.

25. The MMF itself is not a party to this action. Instead, the MMF's corporate and administrative entity, MMF Inc., has been named and erroneously described as "carrying on business" as the Manitoba Métis Federation. This is a deliberate and misguided attempt to reduce the MMF to a corporate form.

26. MMF Inc. is a body corporate formed out of necessity. It was incorporated in 1967 pursuant to the Manitoba *Corporations Act*, RSM 1987 c C225 as a company without share capital. The MMF was required to form and incorporate MMF Inc. because, at the time, the federal government and other institutions refused to deal with the MMF unless it was incorporated.

27. The Manitoba Métis have always maintained informal bi-lateral relations directly with the Crown in right of Canada and the Federal Government of Canada.

28. On July 6, 2021, the MMF and the Government of Canada executed the *Manitoba Métis Self-Government Recognition and Implementation Agreement* (the “**Self-Government Agreement**”), which immediately recognized the MMF as the democratic representative government of the Manitoba Métis. It also recognized that Manitoba Métis Citizens and those that are entitled to become Citizens are “today located within what is now Manitoba as well as elsewhere inside and outside Canada.”

29. The Self-Government Agreement provides for the continued negotiation and conclusion of a Manitoba Métis Treaty and the passage by Parliament of Implementation Legislation.

30. The Self-Government Agreement has been poorly received by Métis organizations and the MNC. For example, on September 29, 2021, the Métis Nation of Alberta, through the Métis Nation of Alberta Association (the “**MNA**”), commenced an application for judicial review against the Minister of Crown-Indigenous Relations and the MMF seeking to have the Self-Government Agreement set aside. The Métis Nation – Saskatchewan, through the Métis Nation –

Saskatchewan Secretariat Inc. (the “MN-S”), has sought leave to intervene in the application to support it. The MNA and the MN-S are Governing Members of the MNC.

31. Prior to entering into its own Self-Government Agreement, the MMF was a signatory to the *Canada-Métis Nation Accord* between the Crown in right of Canada and the Métis Nation that came into effect on April 13, 2017 (the “**Accord**”). The Accord recognizes that the Métis Nation is represented by the MNC and its Governing Members (including, at the time, the MMF).

32. By letter dated May 2, 2022 to the Prime Minister of Canada, the MMF formally withdrew from the Accord in order for the Manitoba Métis to formalize their own, distinctions-based, relationship with the Crown in right of Canada.

David Chartrand

33. David Chartrand is the President of the MMF. He was first elected President in 1997 and has held that position continuously since that time. He was most recently re-elected in June 2018 by acclamation. He has been politically involved in the affairs of the Métis Nation since 1988 when he was elected to the Board of Directors of MMF Inc.

34. David Chartrand is well known within the Métis Nation, and the general Canadian community, and his contributions to the Métis Nation and Canada have been recognized and honoured. Before becoming MMF President, David Chartrand worked for the Manitoba Department of Justice for approximately ten years. He is a recipient of the Order of Manitoba, the Order of the Métis Nation, and Her Majesty the Queen's Golden Jubilee Medal, and has an honorary Juris Doctor from the University of Winnipeg. David Chartrand has a long and

distinguished record of service to the Red River Métis and the protection of the collective rights of the Red River Métis.

35. Before the MMF's withdrawal from the MNC, David Chartrand was a governor of the MNC Board of Governors and a director of Métis National Council Secretariat Inc. ("**MNCS Inc.**"). He was appointed Vice-President of the MNC in or around 2007.

36. David Chartrand has held several ministerial positions within the MNC including Minister of Finance and Administration, Minister of Social Development, and Minister for Veterans for over 20 years. He was primarily responsible for the MNC's advocacy efforts on behalf of Métis Veterans.

37. For virtually his entire adult life, David Chartrand has worked tirelessly to advance the interests of the Métis Nation and to protect its distinct identity. At all relevant times, he has acted in accordance with all statutory and common law duties owed to MNCS Inc. including any and all duties to avoid and disclose conflicts of interest.

38. The allegations against David Chartrand have no basis in fact or law. They are designed, under the protection of absolute privilege, to falsely impugn his character and reputation amongst the Métis people, the MMF's partners and counterparts in government, and the Canadian public.

The MNC

39. The Plaintiff MNCS Inc. is the legal and administrative arm of the MNC. MNCS Inc. was incorporated in 1985 under the *Canada Corporations Act* and continued as a not-for-profit corporation under the *Canada Not-for-Profit Corporations Act* in 2014.

40. The MNC is not a party to the action. By naming only the corporate form of the MNC, the Plaintiff is attempting to distort the true character of the MNC as defined by its own recognized policies and practices.

41. Previously, when the MMF was a member, the MNC structured itself as the national government of the Métis Nation. However, it mainly operated as an advocacy platform for Métis Nation interests rather than as a fully-functioning government. The MNC never provided services to any citizens of the Métis Nation and it relied on its Governing Members to provide such services.

42. The MNC currently has four “members”: (i) the MN-S; (ii) the MNA; (iii) the Métis Nation British Columbia (the “MNBC”); and (iv) the MNO (the “**Governing Members**”). Each of the Governing Members has a representative on the MNC’s Board of Governors.

43. The Accord, and subsequent sub-accords, contain specific provisions respecting the roles and responsibilities of Governing Members that formally recognize and clarify that the MNC’s role is one of national policy and coordination and not program and service delivery. Program and service delivery was, and is, the primary responsibility of its Governing Members, including the MMF when it was a Governing Member.

44. The MMF was a founding member of the MNC, and Governing Member from the MNC’s inception to the MMF’s withdrawal in September 2021. The MMF was a primary driver of the MNC’s growth and success in procuring billions of dollars in funding from the federal government and other sources for the benefit of the Métis Nation. Because of the MMF’s size and resources, it regularly supported the MNC in administering its affairs, which the MNC did

not, and does not, have the capacity to perform for itself. While it was a Governing Member, the MMF would, from time to time, fund the MNC's payroll and meet other financial obligations of the MNC when the MNC was not in a position to do so. No other Governing Member took on that financial responsibility for the MNC.

45. The MNC has always operated in accordance with Métis Nation traditions, practices and procedures, which are well known and accepted by the Métis Nation. For example, the MNC has long operated with a Cabinet structure, the appointment of a Vice-President, and the appointment of Ministers to various portfolios, even though MNCS Inc.'s by-laws do not provide for that governance and administrative structure.

46. Other aspects of the MNC's governance structures are not set out in MNCS Inc.'s by-laws, including the Priorities and Planning Committee (the "PPC"). The PPC was developed and agreed to by all MNC Members. It is provided for in section 2.1.3 of the Terms of Reference for the Métis Nation Cabinet, which states:

2.1.3. A Priorities and Planning Committee (PPC) will be established by the MNC President to assist him/her in strategic planning and overseeing the administration and operations of the MNC. The PPC shall consist of the MNC President and specific Board of Governors appointed by the MNC President.

47. The PPC was established following recommendations made during a May 27-28, 2003 Board of Governors Meeting. At that time, Audrey Poitras of the MNA was the MNC interim President. In that capacity, and as a member of the Board of Governors, Poitras made recommendations with respect to ministerial portfolios and the establishment of the PPC. Poitras would later hold the position of Minister of Finance and Administration of the MNC and sat as a

member of the PPC for a number of years. The PPC also included the former President of the MN-S, the President of MNBC, Clara Morin Dal Col, in addition to David Chartrand and President Chartier. From time to time, other members of the Board of Governors attended PPC meetings. At all relevant times, many of the members of the Board of Governors declined to take an active role in the governance of the MNC including by turning down offered ministerial portfolios and declining to sit on the PPC.

48. At all relevant times, the PPC functioned to deal with various matters of MNC business and was empowered to make decisions and take actions on behalf of the MNC and bind the MNC. The existence of the PPC and its activities were known to, and accepted by, the MNC Board of Governors and the Governing Members.

49. At all relevant times, the mandate of the MNC was set by the MNC General Assembly, which consisted of 55 elected representatives from its Governing Members. The mandate of the MNC is carried out by the MNC Board of Governors, the office of the President, the PPC, and the activities of the MNC Ministers, including the Minister of Finance and Administration.

THE NATIONAL DEFINITION DISPUTE

50. The MNC is pursuing this action as a tactical manoeuvre as part of a broader political dispute with the MMF that is being driven by a fundamental disagreement over what it means to be Métis.

51. In 2002, the MNC adopted the National Definition of Métis. All five Governing Members subsequently adopted the same definition, which was included in their respective

constitutions and/or by-laws, and it was agreed that they were to apply that definition when granting membership (citizenship) to individuals.

52. In August 2017, the MNO announced its recognition of six alleged “new historic Métis communities” and granted membership to numerous individuals who do not satisfy the criteria prescribed by the National Definition. Subsequently, at the 2017 MNC General Assembly, the General Assembly directed a review of the MNO in respect of its compliance with the National Definition.

53. At the November 2018 MNC General Assembly, the MNC President, Clément Chartier, reported on the findings of the review and recommended resolutions. A recommended related resolution was passed to accept the MNC President’s report and the recommended resolutions, which required the MNO’s membership registry to comply with the National Definition. The MNO, however, continued to grant membership to individuals who did not meet the National Definition and refused to allow any further MNC review or oversight.

54. As a result of the MNO’s actions, a disagreement emerged amongst the MNC Governing Members. The MMF supported the National Definition and took the position that the MNO was acting contrary to the National Definition and had failed to comply with the MNC General Assembly resolution. The other MNC Governing Members aligned themselves with the MNO and supported its broader, pan-Indigenous approach to granting membership.

55. At the MMF’s 2019 General Assembly, the MMF’s Citizenship passed a resolution directing the MMF to withdraw from the MNC if the MNO failed to adhere to the National Definition.

56. By September 2021, it became clear that the other Governing Members supported the MNO and that the MNC would not require the MNO to adhere to the National Definition. The MMF accordingly formally withdrew from the MNC on or around September 29, 2021. Immediately after the MMF's withdrawal, the MNC elected Ms. Caron as President and embraced the MNO's pan-Indigenous definition of Métis.

THE MNC'S ALLEGATIONS ARE MERITLESS AND SHOULD BE DISMISSED

The Métis Veterans Legacy Program

57. The MMF and David Chartrand deny the allegations made at paragraphs 64-75 of the Claim relating to the Métis Veterans Legacy Program (the "**MVLP**"). Specifically, the MMF and David Chartrand plead:

- (a) the Service Delivery Agreement between the MMF and the MNC dated September 24, 2020, and amended on April 22, 2021 (the "**Service Delivery Agreement**") did not effect an assignment of any portion of the Métis Veterans Recognition Payment and Contribution Agreement between Canada and MNCS Inc. (the "**Contribution Agreement**");
- (b) the Canadian Minister of Veterans Affairs has knowledge of the Service Delivery Agreement and is supportive of the MMF's role as service delivery agent for the Contribution Agreement and the MVLP;
- (c) the Service Delivery Agreement and the MMF's role as service delivery agent were not "concealed" from the MNC Board of Governors. The MMF's role as

service delivery agent has been known to all members of the MNC since the execution of the Service Delivery Agreement;

- (d) neither the execution of the Service Delivery Agreement nor the steps taken to operationalize the MVLP – including the transfer of operating funds to the MMF, the establishment of an investment account or the agreement to pay an administration fee to the MMF, which is donated back to the MVLP – violated the MNC’s by-laws, customs, policies and practices, any legislation, or the common law and fiduciary duties of any person, including David Chartrand;
- (e) the MMF did not knowingly assist any breaches of fiduciary duty by any person, including David Chartrand, nor did it knowingly receive “unlawfully converted” funds, and there is no constructive trust over any funds held by the MMF in connection with the MVLP or otherwise; and
- (f) the Service Delivery Agreement was not part of any “scorched earth policy”. The MNC did not, and does not, have the infrastructure, knowledge or capacity to deliver the services, programs and benefits required to be delivered by the Contribution Agreement. The MNC therefore needed support, expertise and capacity of the MMF to implement the Contribution Agreement, deliver the services and programs contemplated by the Contribution Agreement, and to satisfy the MNC’s contractual obligations under the Contribution Agreement. The Contribution Agreement expressly acknowledges this by listing the MMF’s

Executive Director as the primary recipient contact. The Service Delivery Agreement is a benefit to the MNC, given the MNC's capacity deficiencies.

Background to the Métis Veterans Legacy Program

58. The Contribution Agreement and the consequent establishment of the MVLP was the culmination of over 20 years of tireless advocacy by the Métis people. Those advocacy efforts were led by David Chartrand, both in his capacity as President of the MMF and as Minister for Veterans for the MNC.

59. Thousands of Métis people fought for Canada during World War II. They served their country with distinction and were instrumental to Canada's war effort.

60. However, Métis Veterans did not receive the same support, resources or benefits that were promised to them and that were routinely given to non-Métis Veterans. They were denied the economic assistance they needed to rebuild their lives after the war, and were routinely discriminated against by Veterans Affairs Canada.

61. David Chartrand became the MNC Minister for Veterans in or around 2002-2003. Upon assuming the portfolio, Chartrand made it one of his top priorities to address the injustice faced by Métis Veterans and to secure recognition for their service to Canada from the federal government.

62. In 2019, these advocacy efforts finally succeeded. On June 13, 2019, following successful negotiations led by David Chartrand, Canada and MNCS Inc. entered into the

Contribution Agreement. The agreement was signed immediately following a Crown-Métis summit, in the presence of representatives of all Governing Members.

63. Under the Contribution Agreement, Canada agreed to provide \$30 million to the MNC to establish and fund a Métis Veterans program. The agreement identified two specific objectives:

- (a) to recognize eligible Métis Veterans or their survivors through \$20,000 individual recognition payments; and
- (b) to support commemorative initiatives that promote awareness of and appreciation for the sacrifices of Métis Veterans.

64. In connection with the Contribution Agreement, the federal government agreed to deliver an apology for Canada's treatment of Métis WWII Veterans. The apology was issued on September 10, 2019 by Canada's Minister of Veterans Affairs and Associate Minister of National Defence.

65. David Chartrand executed the Contribution Agreement on behalf of MNCS Inc. It was an established corporate practice and accepted institutional custom that contracts may be signed by one authorized signatory of the MNC and be binding on the MNC. The MNC and President Chartrand followed that practice and custom.

66. The MNC has not, prior to this proceeding or in this proceeding, challenged the validity of the Contribution Agreement. Nor has Canada challenged the validity of the Contribution Agreement.

The MNC contracts with the MMF to implement the Contribution Agreement

67. The MNC is an advocacy organization. It has never had a mandate or the infrastructure to provide services to the Métis people. Historically, it has relied on its Governing Members to provide services.

68. By contrast, the MMF has a long history of successful program and service delivery to the Red River Métis. Unlike the MNC, the MMF, as an Indigenous self-government, has for over 50 years been responsible for administering hundreds of millions of dollars through important programs and services provided to tens of thousands of Métis Citizens. These programs and services include educational grants and scholarships as well as supporting entrepreneurs and small and medium sized businesses that are dedicated to preserving Métis traditional economies.

69. The operational limitations of the MNC were well-known to and accepted by all Members of the MNC at the time the Contribution Agreement was negotiated and finalized. It was always known and understood that the MNC did not have the capacity to administer and implement the Contribution Agreement, and that the implementation of the Contribution Agreement would be undertaken by the MMF. In fact, the Contribution Agreement expressly identifies the MMF's Executive Director as the primary recipient contact.

70. Accordingly, the MNC outsourced the implementation of the Contribution Agreement to the MMF through the Service Delivery Agreement. Under the Service Delivery Agreement, the MMF and the MNC expressly acknowledged that:

- (a) “the MMF has been in the vanguard of pursuing a settlement for all Métis Veterans with President Chartrand serving as the Minister for Veterans for MNC for over 20 years”; and
- (b) “the MNC has historically not delivered programs and services to Métis people as this is the primary responsibility of the Governing Members including the [MMF]”.

71. Among other things, the Service Delivery Agreement provides that:

- (a) the program to be delivered pursuant to the Contribution Agreement will be the “Métis Veterans Legacy Program”;
- (b) the MMF is the “Service Delivery Agent” of the MNC for the purpose of delivering services related to the MVLP in accordance with the Contribution Agreement;
- (c) the MMF will perform the distribution of payments to eligible Métis Veterans as required by the Contribution Agreement;
- (d) the MMF will provide the MNC with all necessary information to allow the MNC to comply with its financial reporting requirements under the Contribution Agreement; and
- (e) the MMF is entitled to administer the MVLP until March 31, 2030, with an option to extend the term of the Service Delivery Agreement for a further five (5) years.

72. The MMF has continuously administered the MVLP since the execution of the Service Delivery Agreement in September 2020. The MVLP has been a resounding success under the MMF's stewardship. The MMF has overseen and facilitated:

- (a) the establishment of Terms of Reference for the Métis Veterans Legacy Commission (the "**Commission**"), the members of which are solely appointed by the MNC Minister for Veterans. To date, the Commission has approved funding of \$2.3 million for various projects and initiatives;
- (b) the establishment of a team dedicated to processing recognition payments and raising awareness about the recognition payment process to encourage Métis Veterans to submit applications. This team also developed the application form and the application process using the strict criteria for recognition payments provided for under the Contribution Agreement;
- (c) the process by which Métis Veterans' historical ancestry and Second World War service is researched and confirmed;
- (d) the payment of 80 recognition payments to Métis Veterans across Canada, and beyond, totalling \$1.6 million. Of these payments, 30 went to individual surviving Veterans, 42 to spouses of deceased Veterans and eight to children of deceased veterans; and
- (e) the re-contribution of the entirety of its management fees under the Service Delivery Agreement to the MVLP to assist the funding of the MVLP. The MMF's

financial and in-kind contributions cover approximately 33% of the MVLP's total operational expenses.

The MNC's allegations against the Service Delivery Agreement are unfounded

73. The MMF and David Chartrand deny the MNC's allegations that the Service Delivery Agreement is "purported", an "assignment", or a "conversion". The MNC's allegations are meritless.

74. The Service Delivery Agreement does not violate MNCS Inc.'s by-laws. The Service Delivery Agreement was executed in conformity with MNCS Inc.'s by-laws.

75. To the extent that the Service Delivery Agreement does not strictly comply with the by-laws, which is denied, strict compliance with the by-laws is not required given the MNC's customs, policies and practices, with which the Service Delivery Agreement complies. With respect to contracts and agreements, the MNC has consistently, for many years, executed, performed and relied on agreements executed with only one signature on behalf of the MNC and/or MNCS Inc., including the Contribution Agreement.

76. Furthermore, the MNC's claim improperly reduces itself to a corporate entity. The MNC is an Indigenous representative body and properly viewed through the lens of recognition, reconciliation and affirmation. In this regard, the MMF and David Chartrand plead and rely on section 35 of the *Constitution Act, 1982*. Strict compliance with corporate law requirements, and a failure to recognize and affirm the MNC's long-standing traditions, practices and governance structures, frustrate and run contrary to section 35.

77. The MMF and David Chartrand deny the allegations at paragraphs 71(a) and 72 of the Claim regarding the transfer of monies from the MNC to the MMF. The transfer of operating funds by the MNC to the MMF was made pursuant to the Service Delivery Agreement, which is valid, in force and binding on the parties. It was a lawful transfer of funds that was necessary for the MMF to undertake its obligations under the Service Delivery Agreement, which includes implementing, overseeing, and facilitating the MNC's obligations under the Contribution Agreement.

78. On June 24, 2020, the PPC considered and approved, among other things, the transfer of funds from the MNC to the MMF. The PPC expressly recognized that the purpose of the transfer was to:

administer the Métis Veteran's Recognition Payment Contribution Agreement on behalf of the Métis Nation including the distribution of payments and financial reporting requirements and that the MMF will provide the MNC with full transparency and accountability for the administration of the MVLP.

79. Contrary to the allegations at paragraphs 71(b) and 72 of the Claim, the Richardson GMP investment account is not in the name of the MMF or under the sole control and direction of the MMF. The investment account is and always has been in the name of the MNC, and under the MNC's sole control and direction. The Richardson GMP investment account is referenced in the 2021 Audited Financial Statements of MNCS Inc. and identified as an asset of the MNC, and accordingly the MNC – including its current leadership – knew or ought to have known about the status of the account prior to this claim being commenced. The MNC's allegations at paragraphs 71(b) and 72 and regarding the investment account are false and misleading.

80. The MMF and David Chartrand deny the allegations at paragraph 71(c) and 72 of the Claim that the 15% administration fee under the Service Delivery Agreement is unlawful. The MMF is a service provider to the MNC. It is entitled to be compensated for its services. The 15% fee is standard and reasonable for similar service delivery arrangements. Moreover, and in any event, the MMF has re-contributed the entirety of the 15% fee back to the MVLP.

81. The MNC's allegation at paragraph 72 of the claim that the Service Delivery Agreement, and the various steps taken pursuant to the Service Delivery Agreement, was "concealed" from the MNC and the Board of Governors is wrong:

- (a) the MNC, through its then-President Clément Chartier, signed the Service Delivery Agreement. Knowledge of the Service Delivery Agreement is necessarily imputed to the MNC;
- (b) the MNC's Executive Director, Wenda Watteyne, received regular formal and informal reports from the MMF regarding the administration of the MVLP, and those reports were also shared with the PPC. The knowledge of Ms. Watteyne and the PPC is necessarily imputed to the MNC;
- (c) other individuals who are currently employees, officers or directors of the MNC and/or Members of the Board of Governors had direct knowledge of the Service Delivery Agreement and the steps taken by the MMF pursuant to the Service Delivery Agreement; and

- (d) the MVLP Terms of Reference, which were published on June 18, 2021 and which are available on the MVLP website, make express reference to the Service Delivery Agreement.

82. The MNC's allegations regarding the Service Delivery Agreement and the MVLP have no basis in fact or law and have no legitimate legal purpose. Rather, the MNC is misusing the service and sacrifice of Métis Veterans to pursue its own political agenda and that of its President, Cassidy Caron – namely, gaining influence and power amongst the Métis people. In so doing, the MNC is threatening the integrity of the MVLP and undermining the effort to recognize and appreciate the legacy of Métis Veterans and their contributions to Canadian society. The MNC's claims are devoid of merit, are an abuse of the court's process and should be dismissed.

The MMF's application for declaratory relief should be heard together with this action

83. On October 29, 2021, the MNC, through a letter to the MMF and David Chartrand, asserted that the Service Delivery Agreement was “inappropriate” and “unlawful”, amongst other allegations, many of which are repeated in the Statement of Claim. The MNC made several demands, including that all MVLP accounts be immediately frozen and that the MMF reimburse all payments it received under the Service Delivery Agreement. The MNC threatened that if the MMF and David Chartrand did not comply with the MNC's demands by November 5, 2021, the MNC would “commence formal legal proceedings... without further notice.”

84. To address the serious allegations made by the MNC, on November 9, 2021, the MMF commenced an application bearing Court File CV-21-00671763-000, seeking the following declaratory relief:

A declaration that the Service Delivery Agreement between the Manitoba Metis Federation Inc. and the Métis Nation Council Secretariat Inc. dated September 4, 2020, and amended on April 22, 2021, is valid, in force and binding on the parties.

85. The MMF's application remains pending and should be joined and/or consolidated with this proceeding.

The 340 MacLaren Street lease is valid and enforceable

86. The MMF Defendants deny the allegations at paragraphs 76-85 of the Claim regarding the lease amendment between the MNC and 6106111 Manitoba Ltd. ("**610**") dated April 6, 2021 for 340 MacLaren Street, Ottawa (the "**Amended Lease**"). The Amended Lease was not procured through a conflict of interest, or in breach of any statutory duties, fiduciary duties, or the MNC's corporate requirements. The Amended Lease is a valid and enforceable agreement.

Background to the Amended Lease

87. Since October 20, 2011, the MNC has rented office space at 340 MacLaren Street to use as its national headquarters. The MNC has occupied 340 MacLaren continuously and paid its rent without interruption and without deduction.

88. Before renting space at 340 MacLaren, the MNC rented office space in Ottawa from a different landlord and was paying rent of \$19,021.83 a month. The rent was above market in

2011. The property also lacked sufficient storage and its own parking, requiring MNC employees to find and pay for their own parking in downtown Ottawa.

89. In around 2010, the MNC began considering moving its headquarters to a Métis-owned building. However, the MNC was not aware of any available Métis-owned buildings in Ottawa that would meet its needs, and lacked sufficient resources to purchase its own building.

90. To assist the MNC, David Chartrand proposed that the MMF would, through an MMF affiliated corporation, purchase a building in Ottawa that could be rented to the MNC for use as its headquarters.

91. On or around July 2011, 610 purchased units of the building located at 340 MacLaren with the intention of renting the space to the MNC. 610 is wholly-owned by Louis Riel Capital Corporation (“**LRCC**”), which is an affiliate of MMF Inc. Neither 610 nor LRCC have been named as parties to this action by the MNC.

92. At the time, LRCC conducted a market review comparing rents for comparable properties in Ottawa. LRCC concluded that the MNC had, at its previous location, been paying a higher rate relative to the facilities being provided.

93. The results of market review were presented to the MNC Board of Governors. LRCC, on behalf of 610, proposed that the MNC rent 340 MacLaren for a monthly rate of \$18,500. This was below the monthly rate that MNC was paying for its previous space. In addition, it had approximately the same usable office space, more storage space, 5 parking spots, and was Métis-owned.

94. The MNC Board of Governors agreed to the proposal. On October 20, 2011, MNCS Inc. entered into a lease agreement with 610 for a monthly rent of \$18,500 and a 10-year term (the “**Original Lease**”).

95. On November 1, 2016, the monthly rent increased to \$18,700 pursuant to the terms of the Original Lease.

Renewal of the Lease

96. The Original Lease granted the MNC the option to renew the lease for two further consecutive terms of five years each. The Original Lease provides that any renewal shall be on the same terms and conditions as in the Original Lease except for the rate of rent:

17(c)(i) Basic Rent payable during each Renewal Term shall be the greater of the basic annual rental for the last year of the term or last Renewal Term, as the case may be, or the then-current prevailing market rent in the area at the time of the commencement of the Renewal Term for comparable premises in a similar location and being used for similar purposes but not containing any leasehold improvements which *may* have been constructed or Installed in the Premises by or on behalf of the Tenant and at its cost, including any cost of Improvements and which has been Included in arriving at basic rent during the initial Term)...

97. However, instead of renewing the Original Lease, the MNC and 610 decided to negotiate an amendment to the Original Lease. The negotiations were conducted between Marc LeClair as representative of the MNC and Paul Paradis as representative of 610.

98. As a result of the negotiations, the MNC and 610 agreed to raise the basic rent by 4% to \$19,448 and to extend the term of the lease by seven years to April 2028. On April 6, 2021, 610 and MNCS Inc. executed the Amended Lease.

99. In or around April 2021, the Amended Lease was reviewed and approved by the PPC.

100. MMF Inc. and David Chartrand deny the allegation at paragraph 84 of the Claim that the rent amount under the Amended Lease is “much higher than the fair market rent”. To the contrary, the rent rate is well below market and the increase was reasonable. The rental increase was justified by the rising costs of insurance, taxes and the general carrying costs of the building. The 4% increase was well below the rate of inflation and consistent with market standards for rent increases in Ottawa.

101. Moreover, the rent rate under the Amended Lease is only 2% higher than the rent rate MNCS Inc. was paying for its previous office space in 2011, ten years earlier.

102. The MNC first raised complaints about the Amended Lease in a letter from its outside litigation counsel on October 29, 2021. In that letter, counsel for the MNC stated that an action may be brought to “seek a declaration that the Tenant is not bound by or may terminate the Amended Lease”. Despite the letter, the MNC has continued to pay monthly rents, although while “reserving all rights”, and has not sought to relocate its headquarters. The Plaintiff does not seek to set aside the Amended Lease in this, or any other, proceeding.

103. On March 29, 2022, 610 sent the MNC a Notice of Breach arising from the MNC’s continued statements about the unenforceability of the Amended Lease and insistence on paying rent while reserving all rights to recover those rents at some future date. The MNC was given ten days to remedy the breach by (i) acknowledging that the Amended Lease and all of its terms are binding and enforceable; (ii) confirming that the MNC will cease making assertions to the

contrary, including in this proceeding; and (iii) rescind any reservation of rights made with respect to payments of rent.

104. On April 6, 2022, counsel for the MNC responded to the Notice of Breach. The MNC disputed that it breached the Amended Lease and threatened to seek injunctive and other relief if 610 took steps to “interfere with MNC’s quiet enjoyment of the premises”.

105. On April 12, 2022, as a result of the MNC’s refusal to remedy its breach, 610 served the MNC with a Notice of Termination requiring that it deliver up vacant possession of the premises by no later than May 11, 2022.

The transfer of the Métis Nation database to the MMF was lawful

106. The MMF and Chartrand deny any and all allegations of illegality contained at paragraphs 114-124 regarding the Métis Nation Historical Online Database (the “**Database**”).

107. The ownership of the Database was transferred to the MMF lawfully and for a valid purpose, namely to ensure that the Database would be securely hosted and be made available to the entire Métis Nation and the Canadian public.

Background to the Database

108. The development of the Database first began in 1993 through the work of Professor Frank Tough in relation to Métis land entitlement claims. Professor Tough is a historical geographer with specific expertise in Métis land entitlements (“**scrip**”). Professor Tough, who was at that time at the University of Saskatchewan, began creating a unified database to store, organize, and make searchable publicly available historical records of the Métis people.

109. Professor Tough subsequently moved to the University of Alberta and founded the Métis Archival Project Research Lab (the “**MAP Lab**”). The MAP Lab did, and continues to do, archival research of the Crown’s historical records to help support the litigation of Métis Section 35 rights.

110. In 2005, the MAP Lab entered into an agreement with the MNC to create the Database with funding provided through the federal government. The purpose of the Database was to make thousands of high-resolution colour archival documents available and accessible to the average computer user, to preserve Métis historical knowledge and assist Métis people as they investigate their Métis genealogy. The MNC believed that by helping Métis users access their ancestors’ documents, the Database would facilitate cultural re-connection, identity reclamation, and nation-building.

111. The Database is also used as an educational tool for teachers, students, curriculum developers, and the general public, and by academic researchers in the fields of Métis Studies, Canadian History, the Fur Trade, and Legal Studies.

112. The majority of the documents used in the Database are from the Library of Archives of Canada. The MAP Lab researchers transcribe vital and geographic data from all of the digitized archival documents to make these documents easily accessible and searchable.

113. The database is not complete. The MAP Lab has continued to transcribe and digitize Métis-related archival documents on an ongoing basis that continue to be added to the Database. The MMF has taken on the responsibility to fund, maintain, support, and host the Database. It does not use the Database for its own exclusive use. It remains freely accessible to the public.

Need for secure hosting and reliable support

114. The Database was, for several years, plagued by technical issues and unreliable web hosting. In 2014, the Database was identified as obsolete and in need of upgrading. However, the MAP Lab could not secure the funding necessary to perform the upgrade. In February 2016, without any notice, the University of Alberta removed the Database from its servers for apparent security concerns.

115. Over the next three years, the MAP Lab and the University of Alberta worked together to rebuild, improve, and maintain the Database. However, it became clear that hosting the Database on the University of Alberta servers was no longer sustainable long-term and a new arrangement was needed. The University of Alberta demonstrated little interest in hosting the Database on its servers permanently and indicated to Professor Tough that the Database website would need to be hosted on a different server.

116. On April 1, 2020, MNCS Inc. entered into an agreement with the University of Alberta to continue to perform research services for the Database (the “**Database Service Agreement**”). The agreement was executed by David Chartrand on behalf of MNCS Inc.

117. Under the Database Service Agreement, MNCS Inc. engaged the University of Alberta to “perform work associated with the [MNC’s] interest in historical documentation.” The scope of work under the agreement included giving Métis citizens greater access to archival genealogical information through further transcribing and indexing of available record. The University was also tasked with incorporating several specific groups of important historical documents into the Database.

118. The term of the Database Service Agreement was between April 1, 2020 and March 31, 2021. The contract amount for the services was \$289,800, with portions to be paid upon the completion of certain milestones.

119. The Database Service Agreement was necessary for the survival of the MAP Lab and the Database because fiscal year 2019-2020 was the last year in which federal funding was provided to support the MAP Lab and the Database. The MNC, through the PPC, agreed that it would continue to support the programs so that they could continue uninterrupted and so that project staff would not be laid off on April 1, 2020, when the federal funding ended. At the time the Database Service Agreement was entered into, it was recognized by the MNC that this use of MNC resources was not sustainable and that the MMF, or some other body, would need to assume responsibility for the Database and its associated costs on an ongoing basis.

120. During the term of the Database Service Agreement, the MNC and the MMF agreed that the MMF would assume ownership and responsibility for the Database. The MNC recognized that the MMF had the information technology infrastructure to preserve, support and maintain the Database, and that the MMF was committed to maintaining the security and integrity of the Database. The MMF was also in the process of developing the Métis Nation Heritage Centre, which the MNC agreed would be an ideal, permanent home for the Database at the heart of the Métis Nation Homeland.

121. The MNC and the MMF documented the transfer of ownership of the Database by executing a Database Purchase Agreement dated March 26, 2021 and amended on August 17,

2021 (together the “**Database Purchase Agreement**”) for consideration of \$10. Under the Database Purchase Agreement, the MNC and the MMF acknowledged:

- (a) “the importance of maintaining and protecting the Database” and that “the MMF has the capacity and ability to properly achieve these goals by becoming the caretaker of the database”;
- (b) That “the MMF has an existing infrastructure of secure servers that are physically under its control in Winnipeg, Manitoba”; and
- (c) That “the MMF is in the process of developing the Metis Nation Heritage Centre which will be the ultimate home of the Database for the benefit of the Metis Nation”.

122. On April 30, 2021, the Database website was moved to servers owned and operated by the MMF. The new MMF data centre cluster that hosts the Database is thermal controlled, has backup power management and is secure. There are multiple redundant backup safeguards in place with multiple copies of the data stored on and offsite. There is daily server and network monitoring to ensure that the Database remains accessible and operational.

123. Following the transfer, the Database Service Agreement was amended on June 22, 2021 to extend the term of the agreement to March 31, 2022 and set out a payment schedule for the work to be done between April 1, 2021 and March 31, 2022 (the “**Amended Database Service Agreement**”).

124. Effective September 30, 2021, the MNC assigned all of its contractual rights and obligations under the Database Service Agreement and the Amended Database Service Agreement to the MMF (the “**Assignment Agreement**”). The Governors of the University of Alberta executed an acknowledgment of the Assignment Agreement on September 28, 2021. Thereafter, the MMF took on the significant financial responsibility of making payments under the Amended Database Service Agreement, including \$157,033 paid on December 15, 2021.

125. The Database in its present, improved, form is fully accessible to anyone with an internet connection at the following link: <https://www.metisnationdatabase.ca/>.

126. The MMF has taken on the financial, technical, and logistical responsibility of being the custodian of the Database, which houses information that ultimately belongs to all Métis people. The Database today is more complete, accessible, and functional than it ever was previously.

127. The MMF has earned no profits either directly or indirectly from the Database. To the contrary, the Database has and will continue to require a significant investment in time, funds and resources of the MMF.

128. The MMF and David Chartrand deny that the Database was transferred for “nominal or no consideration”. The Database is not a commercial product and has no commercial value. It has significant cultural value for the Métis Nation that cannot be monetarily quantified. The suggestion by the MNC that its value can be or should be monetarily quantified reveals a fundamental misunderstanding of the Database, its content and its purpose.

129. Contrary to the allegations at paragraphs 117 and 119-121, the MMF and David Chartrand deny that either the Database Purchase Agreement or the Assignment Agreement were

executed or implemented in violation of the MNC's by-laws, customs, policies or practices, or under a conflict of interest. President Chartier was lawfully authorized to execute the agreements on behalf of the MNC, in accordance with the MNC's by-laws and/or its customs, policies or practices. David Chartrand was not in a conflict of interest because the sale of the Database was in the interest of the MNC, in light of its lack of capacity to preserve and further develop the Database. Moreover, David Chartrand's affiliation with the MMF was expressly known to Chartier, the PPC and the MNC.

130. Contrary to the allegations made at paragraphs 122-123, there was no breach of fiduciary duty, conspiracy or conversion by the MMF, David Chartrand or anyone else.

The settlement payments to consultants and employees were lawful

131. David Chartrand denies the allegations at paragraphs 86-96 and 97-107 respecting the alleged impropriety of payments made to departing MNC consultants and employees in or around September 2021. These allegations are baseless and the naming of these former employees in this action is a further example of the desire of the MNC's new administration to ruin reputations and to punish and retaliate against those that it considers to be political enemies.

132. David Chartrand specifically denies that the settlement payments were "excessive, inappropriate or unnecessary" and were made to the detriment of MNCS Inc. Specifically, David Chartrand pleads:

- (a) the settlement payments are consistent with the MNC's agreements with the employees and their statutory entitlements and at common law;

- (b) the settlement payments were, in part, made to settle potential claims these employees may have had against the MNC resulting from the hostile work environment created through the National Definition conflict and associated litigation;
- (c) he acted in the best interests of the MNC and exercised his reasonable judgment in addressing the legitimate concerns of employees about their positions at the MNC in light of the increasingly hostile work environment and the threat of reprisal by any new MNC administration; and
- (d) he engaged with the MNC's external legal counsel, Power Law, and reasonably relied on their professional advice with respect to the appropriateness of the settlement payments.

133. David Chartrand specifically denies that he breached any duties owed to the MNC or duties of good faith owed to the MNC. He denies that he “orchestrated”, “encouraged”, or “conspired” to negotiate or re-negotiate any of the consultant agreements in order to “create unconscionable and commercially unreasonable obligation on MNC” as alleged.

134. To the contrary, consultant agreements were entered into in order to retain and preserve key consultants that had many years of service to the MNC and the Métis Nation and established connections and relationships with the federal government. Among other things, those consultants were essential to negotiating and securing \$3.4 billion in funding from the federal government between 2017 and 2021 through the Canada-Métis Nation Permanent Bilateral

Mechanism (“**Bilateral Mechanism**”) and other mechanisms for the direct benefit of the Governing Members and the Métis Nation.

135. The federal government, including specifically the prime minister and cabinet ministers, expressly recognized the contribution of the MNC’s senior policy team, which included the consultants, and the importance and effectiveness of the Canada-Métis Nation Permanent Bilateral Mechanism.

136. Starting in or around 2018, the consultants and MNC employees became deeply concerned about attacks made by representatives of the MNO, MN-S and the MNA against the integrity of the MNC and their own competence. These attacks were made in internal MNC meetings, as well as during meetings of the Bilateral Mechanism, in the presence of federal officials, and were later repeated in correspondence to federal Ministers. These attacks threatened to undermine the efforts being made through the Bilateral Mechanism as well as the professional reputations of the consultants and employees, making it very difficult for them to continue working with MNCS Inc.

137. David Chartrand, on behalf of MNCS Inc., secured the services of the consultants with reasonable assurances in the form of 5-year agreements that included guaranteed payments upon termination. But for these assurances, the consultants would not have continued their arrangements with MNCS Inc. and the federal funding would have been jeopardized.

LeClair Infocom Inc.

138. David Chartrand specifically denies that the payment made to LeClair Infocom was excessive and unreasonable. The quantum of the payment was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

139. On April 1, 2019, MNCS Inc. entered into a consultant agreement with LeClair Infocom Inc. for Marc LeClair to provide services as a Senior Advisor to the MNC. As described above at paragraphs 134-136, this consulting agreement was necessary in order to secure Marc LeClair's continuing participation in the Bilateral Mechanism and negotiations for significant federal funding.

140. LeClair Infocom's services to the MNC resulted in significant government investment in the MNC and other Métis initiatives.

141. In or around the summer of 2021, Marc LeClair was made aware that there were ongoing discussions among the Board of Governors to the effect that a change in leadership at the MNC would result in senior staff and consultants being terminated. He became concerned about his future at the MNC and potential reprisal especially in light of the fact that he had sworn two affidavits in support of the then current administration in court proceedings related to the National Definition dispute.

142. Around August 2021, LeClair Infocom informed MNCS Inc. of its intention to terminate the consultant agreement. David Chartrand subsequently consulted with MNCS Inc.'s external counsel, Power Law, to obtain legal advice on potential claims that may be brought by LeClair Infocom and to attempt to settle any such claims. Power Law drafted minutes of settlement to

resolve and release all potential claims. MNCS Inc. and LeClair Infocom entered into these minutes of settlement, which became effective on September 30, 2021.

143. The minutes of settlement provided for the lump sum payment of \$350,000 (before all taxes and other deductions) to settle all potential claims, which represented twenty-four months of compensation in recognition of longstanding service. This amount was reasonable and fair in light of the terms of the consultant agreement, potential and real lost opportunities, and the potential exposure to claims against MNCS Inc.

Celeste McKay Consulting Inc.

144. David Chartrand specifically denies that the payment made to Celeste McKay Consulting was excessive and unreasonable. The quantum of the payment was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

145. On April 1, 2021, MNCS Inc. entered into a consultant agreement with Celeste McKay Consulting for services related to several matters including the Bilateral Mechanism and matters related to Indigenous languages.

146. McKay was concerned about the tenability of an ongoing relationship with the MNC after a change in leadership. McKay was of the view that the new administration would solidify the toxic environment that had been developing at the MNC as a result of the National Definition and governance dispute.

147. On September 22, 2021, Celeste McKay Consulting informed MNCS Inc. of its intention to terminate the consultant agreement. David Chartrand subsequently consulted with MNCS

Inc.'s external counsel, Power Law, to obtain legal advice on potential claims that may be brought by Celeste McKay Consulting and to attempt to settle any such claims. Power Law drafted minutes of settlement to resolve and release all potential claims. MNCS Inc. and Celeste McKay Consulting entered into these minutes of settlement, which became effective on September 30, 2021.

148. The minutes of settlement provided for the lump sum payment of \$91,765.17 (before all taxes and other deductions) to settle all potential claims, which represented six months of contractual payment (\$75,996), administrative fees of 15% (\$11,399.40) and 5% GST (\$4,369.77). This amount was reasonable and fair in light of the terms of the consultant agreement and the potential exposure to claims against MNCS Inc.

Public Policy Nexus Group

149. David Chartrand specifically denies that the payment made to Public Policy Nexus Group (“PPNG”) was excessive and unreasonable. The quantum of the payment was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

150. On April 1, 2019, PPNG entered into a consultant agreement with MNCS Inc. Section 12 of this agreement provides for 24 months notice period upon termination. As described above at paragraphs 134-136, this consulting agreement was necessary in order to secure the continuing participation of John Weinstein – PPNG’s principal – in the Bilateral Mechanism and negotiations for significant federal funding.

151. PPNG’s services to the MNC resulted in significant government investment in the MNC and other Métis initiatives.

152. In the summer of 2021, PPNG and its principal, John Weinstein, grew concerned about being terminated by MNCS Inc. for punitive reasons. PPNG, through its principal, provided verbal notice of termination to David Chartrand in or around July 27, 2021.

153. Following being informed about the termination, David Chartrand consulted with MNCS Inc.'s external counsel, Power Law, to obtain legal advice on potential claims that may be brought by PPNG and to attempt to settle any such claims. Power Law drafted minutes of settlement to resolve and release all potential claims. MNCS Inc. and PPNG entered into these minutes of settlement, which became effective on September 30, 2021.

154. The minutes of settlement provided for a lump sum payment of \$350,000 (before all taxes and other deductions) to settle all potential claims, which represented twenty-four months of contractual compensation. This amount was reasonable and fair in light of the terms of the consultant agreement, the longstanding service of Weinstein as Senior Advisor, and the potential exposure to claims against MNCS Inc.

Infinity Research Development and Design Inc.

155. David Chartrand specifically denies that the payment made to Infinity Research Development and Design Inc. (“**Infinity**”) was excessive and unreasonable. The quantum of the payment was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

156. On April 1, 2021, Infinity entered into a consultant agreement with MNCS Inc. for consulting services related to the MNC's overall mandate in the area of Environment and Climate Change.

157. In the summer of 2021, as a result of the ongoing National Definition dispute, Infinity was being isolated from key ongoing work. Infinity grew concerned about the political divisions within the MNC and recognized that there was likely no place for Infinity at the MNC on an ongoing basis. On September 22, 2021, Infinity informed MNCS Inc. that it considered its consultant agreement to be terminated.

158. Following being informed about the termination, David Chartrand consulted with MNCS Inc.'s external counsel, Power Law, to obtain legal advice on potential claims that may be brought by Infinity and to attempt to settle any such claims. Power Law negotiated and drafted minutes of settlement to resolve and release all potential claims. MNCS Inc. and Infinity entered into these minutes of settlement, which became effective on September 30, 2021.

159. The minutes of settlement provided for a lump sum payment of \$81,360.00 (before all taxes and other deductions) to settle all potential claims, which represented six months of contractual payment (\$72,000) and 13% HST (\$9,360.00). This amount was reasonable and fair in light of the terms of the consultant agreement and the potential exposure to claims against MNCS Inc.

SystemWay Consulting Inc.

160. David Chartrand specifically denies that he negotiated commercially unreasonable and oppressively onerous termination provisions in MNCS Inc.'s consultant agreement with SystemWay Consulting Inc. ("**SystemWay**").

161. David Chartrand further denies that termination payments to SystemWay are excessive, inappropriate or unnecessary. At all material times, David Chartrand followed the relevant

provisions in MNCS Inc.'s consultant agreement with SystemWay and acted in the best interests of MNCS Inc.

162. On April 1, 2019, SystemWay entered into a consultant agreement with MNCS Inc. Under this agreement, SystemWay provided, among other services, IT management and policy research for the MNC. As described above at paragraphs 134-136, this consulting agreement was necessary in order to secure the continuing participation of Wei Xie – SystemWay's principal – in the Bilateral Mechanism and negotiations for significant federal funding.

163. SystemWay's services to the MNC resulted in significant government investment in the MNC and other Métis initiatives.

164. Section 12 of the consultant agreement allows either MNCS Inc. or SystemWay to terminate the consultant agreement "at any time, for any reason, by providing 'twenty four months' written notice to the other party." Further, section 12.3 specifically provides that if SystemWay terminates this agreement, MNCS Inc. shall pay an amount equivalent to 24 months of compensation to SystemWay.

165. The hostile working environment at the MNC, as a result of the National Definition dispute, caused the principal Wei Xie to experience various stress-related health issues. Xie also expected that a new administration of the MNC would add to her existing workload and further deteriorate her health.

166. For these reasons, on September 23, 2021, SystemWay provided notice to MNCS Inc. that it intended to exercise its rights under sections 12 and 12.3 of the consultant agreement and terminate the consultant agreement.

167. MNCS Inc. and SystemWay entered into minutes of settlement, which became effective on September 30, 2021. The minutes of settlement provided a lump sum payment of \$276,000 (before all taxes and other deductions) to SystemWay. This arrangement reflects the amount required under section 12.3 of the consultant agreement.

168. David Chartrand pleads and relies on legal advice provided by Power Law.

Kristina Monette and Storm Russell

169. David Chartrand specifically denies that the payments made to Kristina Monette and Storm Russell were excessive and unreasonable. The quantum of the settlement payments was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

170. On October 1, 2018, Monette entered into an employment agreement with the MNC as a Logistics Coordinator. Her initial annual salary was \$60,000. Her salary did not change throughout the course of her employment despite her taking on more responsibilities at the MNC.

171. On July 3, 2019, Russell entered into an employment agreement with the MNC as a Senior Policy Advisor. Her initial salary was \$120,000.

172. After years of dedicated service to the MNC, and in the context of intensifying internal disputes within the MNC over the National Definition of “Métis”, Monette and Russell expressed to the MNC leadership and management that they considered the workplace to be increasingly hostile and that they feared retaliation from a new MNC administration.

173. In or around May 2021, David Chartrand and others at the MNC, recognized that several employees, including Monette and Russell, were deeply concerned about their positions at the MNC and the threat of potential reprisals upon a change of leadership. As a result, the MNC leadership at the time made formal assurances to virtually all MNC employees, including Monette and Russell, that they would receive reasonable notice payments in the event of their termination from the MNC upon a change of leadership.

174. The assurances were given in part to provide a smooth transition from one administration to another and to assure employees that they would be treated fairly and reasonably, in light of their years of service, in the event of termination.

175. The PPC and others at the MNC were aware of the assurances provided to Monette and Russell, and approved of them. By letters dated May 28, 2021, Monette and Russell were provided with an assurance that they would receive a payment equivalent to 12 months of salary upon their termination.

176. The MNC and Monette entered into minutes of settlement, effective September 30, 2021, providing a \$60,000 lump sum retirement allowance (before all taxes and other deductions) in recognition of her service as Logistics Coordinator and Assistant to the Executive Director of the MNC. The payment was fair and reasonable in all of the circumstances and resolved and released all potential claims that Monette may have had against the MNC.

177. The MNC and Russell entered into minutes of settlement, effective September 30, 2021, providing a \$120,000 lump sum retirement allowance (before all taxes and other deductions) in recognition of her service as Senior Policy Advisor of the MNC. The payment was fair and

reasonable in all of the circumstances and resolved and released all potential claims that Russell may have had against the MNC.

178. David Chartrand received legal advice from the MNC's external counsel, Power Law, regarding the appropriateness of the settlement payments made to Russell and Monette. David Chartrand relied on the advice of the MNC's lawyers in approving the settlement payments to Russell and Monette.

179. Naming Monette and Russell as defendants in this action is mean-spirited, spiteful and another example of the political animus that motivates this action.

Wenda Watteyne

180. David Chartrand specifically denies that the payment made to Wenda Watteyne was excessive and unreasonable. The quantum of the severance payment was reasonable and arrived at with the benefit of legal advice on which David Chartrand reasonably relied.

181. In 2018, Watteyne started consulting for the MNC. On April 1, 2019, Watteyne was provided with an assurance letter from the MNC that she would receive a minimum of 12 months' notice in the event that she was terminated.

182. On December 11, 2019, Watteyne entered into a formal employment agreement with the MNC as an Executive Director, a role that she had been performing since 2018. Her initial salary was \$170,000.

183. Over the years, and especially in the summer of 2021, Watteyne had expressed concerns to the MNC leadership about an increasingly hostile and detrimental work environment. She

made reference to attacks made by representatives of the MN-S and the MNA to the integrity of the MNC as well as on her own competence. Many of these attacks were made in the presence of federal government employees and repeated in correspondence to federal Ministers, which threatened her reputation and, in turn, her livelihood. Watteyne also expressed concern about reprisal arising from the National Definition dispute.

184. In or around September 2021, David Chartrand sought and obtained legal advice from Power Law with respect to Watteyne's employment agreement. He reasonably relied on that advice.

185. The MNC and Watteyne entered into minutes of settlement, effective September 30, 2021, providing a \$374,000 lump sum retirement allowance and settlement payment (before all taxes and other deductions) in recognition of her service as Executive Director of the MNC. The payment was the product of extensive negotiations and was fair and reasonable in all of the circumstances. It resolved and released all potential claims that Watteyne may have had against the MNC.

186. The settlement payment amount was arrived at through negotiations conducted between Watteyne and the MNC's external counsel, Power Law. David Chartrand reasonably relied on Power Law with respect to the settlement payment.

President Chartier

187. David Chartrand specifically denies that the payment made to President Chartier was excessive and unreasonable. The quantum of the payment was reasonable in light of President Chartier's years of dedicated service to the MNC.

The Louis Riel Institute consultant agreement was lawful

188. David Chartrand specifically denies that he negotiated excessive, commercially unreasonable and oppressively onerous payment obligations in its consultant agreement with the Louis Riel Institute (“**LRI**”). At all material times, David Chartrand followed MNCS Inc.’s by-laws, customs, policies and practices regarding the negotiation and execution of its consultant agreement with the LRI. At all times David Chartrand acted with a view to the best interests of MNCS Inc.

189. On April 1, 2021, MNCS Inc. and the LRI entered into a consultant agreement (the “**LRI Consultant Agreement**”). Under this agreement, the LRI provides, among other services, (i) expert advice on assessing the costs for delivering effective language programming to the Métis Nation and (ii) input on certification and training for the translation and interpretation of Métis Nation languages.

190. MNCS Inc. and the LRI have had a working relationship since 2017. Before entering into the LRI Consultant Agreement, MNCS Inc. and the LRI were parties to a consultant agreement from September 28, 2020, to March 31, 2021 (the “**2020 LRI Consultant Agreement**”).

191. The LRI Consultant Agreement reflects a continuation of the pre-existing working relationship between MNCS Inc. and the LRI and the 2020 LRI Consultant Agreement.

192. All work performed by LRI between April 1, 2021 and September 30, 2021 was paid for with funds advanced by the MNC pursuant to the 2020 LRI Consultant Agreement. MNCS Inc. has no damages arising from the LRI Consultant Agreement as pleaded or otherwise.

The Gabriel Dumont Institute consultant agreement

193. David Chartrand specifically denies that he negotiated commercially unreasonable and oppressively onerous termination provisions in the Gabriel Dumont Institute (“**GDI**”)’s consultant agreement with MNCS Inc. (the “**GDI Consultant Agreement**”). GDI is an affiliate of, and/or operated by, the MN-S. The MN-S is a Governing Member of the MNC. The MMF and David Chartrand have no knowledge of the status of the GDI Consultant Agreement. The term of the GDI Consultant Agreement has expired and MNCS Inc. has never paid any funds to GDI pursuant to the GDI Consultant Agreement. MNCS Inc. has no damages arising from the GDI Consultant Agreement as pleaded or otherwise.

NO DAMAGES

194. The MMF and David Chartrand deny that MNCS Inc. has suffered any damages as a result of the allegations made in the Claim. Alternatively, any such damages are too remote and unforeseeable to be recoverable, are excessive and MNCS Inc. has failed to mitigate those damages.

195. MNCS Inc.’s damages claim has no basis in law or fact. MNCS Inc. has failed to particularize its damages or provide any rational basis upon which its claim for damages is based. The allegation that MNCS Inc. has suffered a “loss” is baseless and inflammatory, and its sole purpose is to be repeated publicly to unfairly and maliciously impugn the reputations of the Defendants.

196. The Defendants ask that this action be dismissed with costs on a full indemnity basis.

COUNTERCLAIM OF DAVID CHARTRAND

197. The Plaintiff by Counterclaim, David Chartrand, claims:

- (a) a declaration that MNCS Inc. must indemnify David Chartrand pursuant to its by-laws, and/or section 151 of the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23;
- (b) a declaration that David Chartrand acted in good faith and in advancement of MNCS Inc.'s best interests;
- (c) an order that MNCS Inc. pay all of David Chartrand's costs, charges and expenses associated with the action;
- (d) prejudgment and postjudgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (e) the costs of defending this action and of this counterclaim on a full indemnity basis, plus all applicable taxes; and,
- (f) such further and other Relief as to this Honourable Court may deem just.

198. The Plaintiff by Counterclaim, David Chartrand, repeats and relies upon the allegations in the Statement of Defence.

199. At all times, David Chartrand was an officer of MNCS Inc. by virtue of his appointment as Vice-President and his various ministerial positions. Moreover, Chartrand, as the President of

the MMF, was also a Governor of the MNC and a director of MNCS Inc. He had authority to bind the MNC and MNCS Inc. and at all times acted honestly and in good faith with a view to the best interests of the MNC and MNCS Inc.

200. MNCS Inc.'s by-laws, dated July 23, 2003, provide that every Governor of the MNC or officer of MNCS Inc. who has undertaken any liability on behalf of MNCS Inc. shall be indemnified and saved harmless from and against all costs, charges and expenses incurred in any action, suit or proceeding which is brought against the Governor or officer in respect of any act, deed, matter or thing whatsoever, made, done or permitted by them, in or about the execution of their duties or in respect of any such liability. Chartrand is entitled to indemnification under the MNCS Inc. by-laws.

201. In addition or in the alternative, Chartrand is entitled to indemnity from MNCS Inc. of all costs, charges and expenses reasonably incurred in connection with the defence of this action and counterclaim pursuant to section 151 of the *Canada Not-for-Profit Corporations Act*.

202. The Plaintiff by Counterclaim proposes that this action be tried together with the main action.

May 4, 2022

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MÉTIS NATIONAL COUNCIL SECRETARIAT INC.
Plaintiff

-and- CLÉMENT CHARTIER. et al.
Defendants

Court File No CV-22-00675899-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**STATEMENT OF DEFENCE OF MANITOBA METIS
FEDERATION INC. AND DAVID CHARTRAND AND
COUNTERCLAIM OF DAVID CHARTRAND**

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