

# Morris Martin Moore and Valent Legal Announce A Class Action Against the Province of Newfoundland and Labrador has been Certified by the Court

## NOTICE OF CLASS ACTION

### WERE YOU IN A CORRECTIONAL FACILITY IN NEWFOUNDLAND FROM AUGUST 14, 1990 TO OCTOBER 21, 2021?

IF YES, A Class Action May Affect Your Rights.

MOUNT PEARL, Newfoundland and Labrador--([BUSINESS WIRE](#))-- Morris Martin Moore and Valent Legal Announce A Class Action Against the Province of Newfoundland and Labrador has been Certified by the Court.

You could be affected by a class action against the Government of Newfoundland and Labrador (the “Province”).

A lawsuit has been certified as a Class Action against the Province. The Statement of Claim alleges that the Province, through its use of segregation in its correctional facilities, caused harm to inmates, as well as violated their Charter rights. Segregation is any placement in a Provincial Institution in which an inmate is confined in isolation from the general population of the prison. This can include time spent in disciplinary or administrative segregation, the special handling unit, a dry cell, or time spent locked in one’s own cell.

The Representative Plaintiffs are Paul Hennebury, Nikita Pearce, Adam Hayden and Krystal Maher (A.K.A. Chase Maher).

### BASIC INFORMATION

1. **Why is there a notice?** This lawsuit has been “certified” as a class action. This means that the lawsuit meets the requirements for a class action and may proceed to trial. If you are included in the class, you may have legal rights and options before the Court decides whether the claims being made against the Province on your behalf are correct. This notice explains all of these things. A judge of the Newfoundland and Labrador Supreme Court, General Division, is currently overseeing this case. The case is known as *Paul Hennebury et al. v. Her Majesty in Right of Newfoundland and Labrador*, (Court File No. 2020 01G 4112 CP). The people who sued are called the Plaintiffs. The Province of Newfoundland and Labrador is the Defendant.

2. **What is this lawsuit about?** The lawsuit says that the Province improperly subjected prisoners to periods of segregation. This includes subjecting any individual to a period of segregation for 15 days or more, as well as subjecting an individual diagnosed with a Serious Mental Illness to segregation for any length of time. The lawsuit says that the use of segregation in these circumstances constitutes systemic negligence and breach prisoners’ rights under the *Canadian Charter of Rights and Freedoms*. The Court has not decided whether the Plaintiffs or the Province is right. The lawyers for the Plaintiffs will have to prove their claims in Court. If you are having difficulty completing the Opt In Form or Opt Out Form, you can call Trilogy Class Action Services at **1-877-400-1211** for assistance.

3. **Why is this a class action?** In a class action, people called the “Representative Plaintiffs” (in this case, Paul Hennebury, Nikita Pearce, Adam Hayden and Krystal Maher a.k.a. Chase Maher), sue on behalf of other people who have similar claims. All of these people are a “Class” or “Class Members.” The court resolves the issues for all Class Members in one case, except for residents of the Province who remove themselves from the Class or non-residents who do not opt in to the Class.

4. **Who is a member of the Class?** The Class includes:

All current and former inmates who were alive as of August 14, 2019, who meet at least one of the following definitions:

**I. Inmates with Serious Mental Illness**

- a) Who were subjected to Segregation for any length of time at one of the Provincial Institutions during the Class Period;
- b) Who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“**DSM**”):
  - i. Schizophrenia (all sub-types);
  - ii. Delusional Disorder;
  - iii. Schizophreniform disorder;
  - iv. Schizoaffective Disorder;
  - v. Brief psychotic Disorder;
  - vi. Substance-induced psychotic disorder (excluding intoxications and withdrawal);
  - vii. Psychotic Disorder not otherwise specified;
  - viii. Major Depressive Disorder;
  - ix. Bipolar Disorder I;
  - x. Bipolar Disorder II;
  - xi. Neurocognitive Disorders and/or Delirium, Dementia and Amnestic and Other Cognitive Disorders;
  - xii. Post-Traumatic Stress Disorder;
  - xiii. Obsessive Compulsive Disorder; or
  - xiv. Borderline Personality Disorder;

and,

- c) The Defendant knew, or ought to have known, of the diagnosed mental illness (“the **SMI Inmates**”).

or,

**II. Inmates in Prolonged Segregation**

- a) Who were subjected to a period of Segregation for 15 or more consecutive days (“**Prolonged Segregation**”) at a Provincial Institution during the Class Period (the “**Prolonged Inmates**”).  
(together, the “**Class Members**”)

“**Segregation**” is defined as any placement in a Provincial Institution in which a prisoner:

- b) is confined to an isolation cell, pursuant to ss. 27 or 28 of the *Prisons Regulations*, CNLR 993/96 or otherwise; or
- c) is confined in any other manner in which he or she is isolated from the general prison population.

“**Provincial Institutions**” is defined as any of Her Majesty’s Penitentiary, the Newfoundland and Labrador Correctional Centre for Women, the Labrador Correctional Centre, the Bishop’s Falls Correctional Centre, the West Coast Correctional Centre, the St. John’s Lockup, and the Corner Brook Lockup.

“**Class Period**” is defined as August 14, 1990 to the date of certification.

**5. What are the Plaintiffs asking for?** The Plaintiffs are asking for money or other benefits for the Class. They are also asking for lawyers' fees and costs.

**6. Is there any money available now?** No money or benefits are available now because the Court has not yet decided whether the Province of Newfoundland and Labrador did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for your share.

#### **YOUR RIGHTS AND OPTIONS**

You must decide whether to stay in the Class or whether to remove yourself, and you have to decide this by **Wednesday, January 19, 2022, 5:00pm (EST)**. What you are required to do depends on whether or not you are currently a resident of the Province of Newfoundland and Labrador.

#### **If you are currently a resident of Newfoundland and Labrador:**

To stay in the Class, you do not have to do anything.

If you do nothing, you will automatically remain in the lawsuit. You will be bound by all Court orders in this case, good or bad, and the Representative Plaintiffs will have authority to resolve your claim. If money or benefits are obtained, you will be notified about how to ask for a share.

Residents who do not want to be a part of the class must opt out by sending a written notice on or before **Wednesday, January 19, 2022, 5:00pm (EST)** to the Class Administrator. Otherwise, you will be bound by the Court’s judgment whether favourable or not.

**7. By opting out, will my name be made public?** No.

#### **If you are NOT currently a resident of Newfoundland and Labrador:**

To be in the Class, you need to take action.

Non-residents who want to be a part of the Class are required to opt in to the Class by sending a written notice on or before **Wednesday, January 19, 2022, 5:00pm, (EST)**, to Newfoundland and Labrador

Prisons Class Action, 117 Queen St, P.O. Box 1000, Niagara-on-the-Lake, ON, L0S 1J0. Include your name, address, telephone number, and signature. You can also get an Opt In Form from [www.nfldprisonsegregation.com](http://www.nfldprisonsegregation.com). You must mail your Opt In Form postmarked by **Wednesday, January 19, 2022**.

If you qualify for the Class, you will be bound by all Court orders in this case, good or bad, and the Representative Plaintiffs will be authorized to resolve your claim. If money or benefits are obtained, you will be notified about how to ask for a share.

Non-residents who do not want to be a part of the class should take no action.

**8. By opting in, will my name be made public? No.**

### **THE LAWYERS REPRESENTING YOU**

**9. Do I have a lawyer in the case?** Yes. The Court has appointed Morris Martin Moore to represent you and other Class members as “Class Counsel.” If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

**10. How will the lawyers be paid?** Class Counsel will only be paid if they win a trial or if there is a settlement. The Court has to also approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class, or paid separately by the defendant.

### **A TRIAL**

**11. How and when will the Court decide who is right?** If the lawsuit is not dismissed or settled, the Plaintiffs will have to prove their claims at a trial that will take place in the Province of Newfoundland and Labrador. During the trial, a court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or the Province is right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

**12. Will I get money after the trial?** If the Plaintiffs obtain money or benefits as a result of a trial or settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Important information about the case will be posted on the website.

### **GETTING MORE INFORMATION**

**12. How do I get more information?** You can get more information at [www.nfldprisonsegregation.com](http://www.nfldprisonsegregation.com) or by emailing [inquiry@trilogyclassactions.ca](mailto:inquiry@trilogyclassactions.ca), or by calling toll free at 1-877-400-1211 or by writing to Newfoundland and Labrador Prisons Class Action, 117 Queen St, P.O. Box 1000, Niagara-on-the-Lake, ON, L0S 1J0.

### **Contacts**

James Locke  
Morris Martin Moore  
184 Park Avenue  
Mount Pearl, NL A1N 1K8  
Tel: 709-747-0077  
[www.mmmlawyers.com](http://www.mmmlawyers.com)  
[jlocke@mmmlawyers.com](mailto:jlocke@mmmlawyers.com)