

MAY 11 2022



S-223818

No. _____
Vancouver Registry

In the Supreme Court of British Columbia

Between

AMELIA CLINE

Plaintiff

and

**GYMNASTICS CANADA, ALBERTA GYMNASTICS FEDERATION,
GYMNASTICS B.C., MANITOBA GYMNASTICS ASSOCIATION INC.,
THE ONTARIO GYMNASTIC FEDERATION,
FÉDÉRATION DE GYMNASTIQUE DU QUÉBEC,
GYMNASTICS SASKATCHEWAN INC.**

Defendants

Brought pursuant to the *Class Proceedings Act*, RSBC, 1996 c 50

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the Plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the Plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

Overview

1. Globally, the sport of gymnastics has come under scrutiny for its culture of cruelty. Factors such as a 'win-at-all-costs' approach, young and mostly female gymnasts, and inherent power imbalances, along with a culture of control and an overarching tolerance of abusive behaviour have all led to the creation of an environment where

abuse and mistreatment of athletes are commonplace and the physical and psychological health of gymnasts is consistently subordinated to performance.

2. Coaches play a significant role in the sport and in the lives of the gymnasts that they train. Coaches and gymnasts spend long hours together on a near daily basis, and a coach will often exercise significant influence and control over a gymnast's life, both inside and outside of the gym. Often times, parents of minor gymnasts are prohibited from attending practices and other gymnastics related events, leaving athletes vulnerable and in the complete care and control of their coaches and other training staff.
3. This action arises from the physical, sexual, and psychological abuse of gymnasts in Canada while they were under the care and control of the provincial gymnastics organisation in their jurisdiction and Gymnastics Canada.
4. The Defendants are the major governing bodies of gymnastics in Canada. The Defendants caused or contributed to the abuse of gymnasts by creating a culture and an environment where the abuse could occur, and failing to take appropriate steps to protect the athletes in their care and control, many of whom were children when the abuse took place.
5. This is a proposed class action on behalf of all gymnasts resident in Canada who claim that they were sexually, physically and/or psychologically abused while participating in Gymnastics Canada, Provincial Member Organization or Member Club programs, activities, or events, between 1978 to the present (the "Class Period").

THE PARTIES

The Representative Plaintiff – Amelia Cline

6. The Plaintiff, Amelia Cline ("Amelia") is a resident of British Columbia with an address for service at 400-856 Homer Street, Vancouver.

7. The Plaintiff began her gymnastics career as a toddler. By the time she was 6 years old, she had been training for several years and was placed in pre-competitive and competitive programs.
8. At 9 years old, she began attending an elite program at Omega Gymnastics Sports Centre in Coquitlam, British Columbia (“Omega”). At all material times, Omega was a Member Club of Gymnastics BC and a Registered Participant of Gymnastics Canada.
9. In or around July or August 2000, under the direction and at the request of Gymnastics Canada, Vladimir and Svetlana Lashin were coaches at Omega. At that time there were between five to seven athletes in the Omega elite program and the same number in the pre-elite program.
10. Amelia and her teammates spent the next three years at Omega being subjected to abusive conduct perpetrated by coaches Vladimir and Svetlana Lashin. It is estimated that between 40 to 60 gymnasts were enrolled in the program during those three years. The abuse was perpetrated against Amelia and her fellow athletes almost daily, and included conduct such as:
 - (a) routine over conditioning, including forced over stretching;
 - (b) routine hyper extension of the knees by coaches forcibly sitting on athletes’ knees;
 - (c) forcing athletes to perform skills while injured;
 - (d) forcing athletes to perform skills beyond their capabilities;
 - (e) directing and requiring athletes to maintain an unhealthy weight;
 - (f) inappropriate physical contact, including having athletes run into Vladimir’s arms and straddle his waist; and,

- (g) inappropriate physical contact, including Svetlana hiking athletes' suits higher on an athlete's legs, hips and buttocks revealing their inner thighs and buttocks.
11. The physical abuse was inextricably linked to a culture of psychological abuse, which included:
- (a) public berating, yelling and humiliation;
 - (b) verbal abuse and bullying, including statements such as "are you stupid?";
 - (c) body shaming, including public weekly weigh-ins which were often accompanied by verbally abusive and humiliating statements such as "what have you been eating?" or "too many cookies this week?";
 - (d) controlling and manipulative behaviour which included ignoring athletes during training and competitions;
 - (e) depriving athletes of necessary instruction, spotting, assistance and coaching;
 - (f) prohibiting parents from attending or observing practice; and,
 - (g) explicitly instructing athletes to not tell their parents what happened at practice.
12. In or around March 2003, Amelia was rehabilitating a torn hamstring and had not yet returned to full training. She was scheduled to compete at the BC Provincial Championships, a qualifying meet for the National Championships, the next day, but only on beam and bars due to her injury.
13. Despite knowing that she was injured, Vladimir Lashin demanded that she perform a vault that she had only recently begun trying again since her injury, using mats and spotting. Vladimir also stated that she was expected to perform this vault in competition the next day.

14. Amelia's protest against performing the vault was ignored. Vladimir screamed at her and forced her to perform the vault. Amelia asked Vladimir to spot her during her attempts, because of her fear that she was unprepared to perform the skill and was at risk of serious injury. Vladimir complied with the request on Amelia's first attempt. However, despite the fact that Amelia had difficulty performing the skill even with his assistance, he refused to spot her on subsequent attempts.
15. Amelia was forced to attempt the vault multiple times without any assistance. After landing on her neck on two of these attempts, Vladimir screamed at Amelia to move on to another event. Both times that she landed on her neck, Amelia suffered severe neck pain and feared that her neck was broken.
16. After Vladimir screamed at her to move on to another event, Amelia left the gym. Shortly after she left the gym, Vladimir found Amelia and brought her into his office. He forced her to weigh herself and told her that the reason she kept getting injured was because she was too heavy. Amelia was 14 years old and weighed approximately 80 pounds.
17. That day, Amelia ended her gymnastics career and left Omega permanently.
18. Amelia and her parents reported this incident and the abuse she suffered at Omega to Gymnastics BC's CEO and Program Director, and a Harassment Officer from Sport BC was appointed to investigate the complaint.
19. At the conclusion of the investigation, Amelia was denied access to the Harassment Officer's report, and was not informed of any procedure to appeal the findings or decision resulting from the investigation.
20. Rather than face punishment for their abusive conduct, Vladimir and Svetlana were rewarded by both Gymnastics BC and Gymnastics Canada.
21. In November 2004, Vladimir was named as a coach of the Canadian team at the World Cup Artistic Gymnastics meet in Ghent, Belgium. He was subsequently named as a coach for Team Canada at the 2004 Olympics in Athens.

22. In 2008, Gymnastic BC awarded both Vladimir and Svetlana with the Sev Heiberg National Stream Coaches of the Year.
23. In June 2009, Gymnastics Canada promoted Vladimir to National Coach/High Performance Director in Women's Artistic Gymnastics. He continued in this capacity until June 2010.
24. As a result of the abuse she was subjected to during her time as a gymnast, Amelia suffered and continues to suffer from physical and psychological harm and injuries, including but not limited to:
 - (a) a training induced seizure;
 - (b) ongoing back and neck injuries and chronic back and neck pain (compression fracture, torn back muscle, sciatica symptoms, arthritis, headaches);
 - (c) hamstring avulsion fracture;
 - (d) wrist fractures and chronic wrist pain;
 - (e) fractures to the right hand;
 - (f) broken fingers and toes;
 - (g) chronic knee pain, including permanently hyper-extended knees;
 - (h) disordered eating;
 - (i) stunted growth;
 - (j) anxiety;
 - (k) insomnia;
 - (l) nightmares;

- (m) flashbacks;
 - (n) panic attacks; and,
 - (o) involuntarily pulling out of her hair and other harmful coping mechanisms.
25. As a result of the abuse and injuries, Amelia has:
- (a) undergone and will continue to undergo treatment and therapies;
 - (b) suffered loss of wages, a loss of competitive advantage and loss of earning potential both in the past and continuing in the future;
 - (c) incurred cost of care, past and future; and,
 - (d) incurred out of pocket expenses arising from or related to the abuse and injuries.

The Class Members

26. Amelia's experience of abuse is representative of what many gymnasts in Canada endure. Numerous gymnasts across Canada have brought forward complaints spanning decades that detail their experiences of sexual, physical and psychological abuse and institutional complicity that has enabled the culture of mistreatment of gymnastics athletes to persist.
27. This action is brought on behalf of the following proposed class:

All gymnasts resident in Canada who claim that they were physically, sexually, and/or psychologically abused while participating in Gymnastics Canada, Provincial Member Organization, or Member Club programs, activities, or events between 1978 and the present (the "Class Period").

(the "Class" and/or the "Class Members").

The Defendants

Gymnastics Canada

28. Gymnastics Canada is a company that is incorporated federally pursuant to the *Canada Not-for-profit Corporations Act*, SC 2009, c 23. Its registered office is at 2451 Riverside Drive Ottawa, Ontario K1H 7X7. Gymnastics Canada was previously known as the Canadian Gymnastic Federation.
29. Each provincial governing body of the sport of gymnastics in a province is considered a “Member” of Gymnastics Canada (the “Provincial Member Organizations” or “PMOs”). In this Notice of Civil Claim, the term “Provincial Member Organization” refers only to the Provincial Member Organizations named as Defendants.
30. All coaches, judges and administrators are considered “Registered Participants” of Gymnastics Canada. Such individuals are registered with a Member Club (as defined below), a Provincial Member Organization and/or Gymnastics Canada.
31. At all material times during the Class Period, Gymnastics Canada, through its employees and/or agents, was responsible for setting, implementing and enforcing policies, practices and standards for the sport of gymnastics in Canada.
32. Gymnastics Canada’s employees and/or agents are responsible for developing, implementing, and managing programs and services according to its policies, practices and standards.
33. At all material times during the Class Period, Gymnastics Canada had the ability, and as the governing body for gymnastics in Canada, the obligation to exercise significant supervision and control over its PMOs and Registered Participants.
34. In particular, Gymnastics Canada’s bylaws provided that the PMOs must abide by Gymnastics Canada’s policies, practices and standards.

35. At all material times during the Class Period, Gymnastics Canada failed to exercise sufficient supervision and control over its PMOs and Registered Participants, including by failing to develop, implement and enforce reasonable policies, practices and standards.
36. At all material times during the Class Period, Gymnastics Canada could impose sanctions on any PMO or Registered Participant who failed to comply with the policies, practices and standards of Gymnastics Canada, which includes the power to, among other things:
 - (a) withhold membership from a PMO or a Registered Participant;
 - (b) discipline, expel or suspend a PMO or Registered Participant;
 - (c) issue fines; and,
 - (d) refuse to sanction gymnastics events.

Provincial Member Organizations (PMOs)

37. Provincial Member Organizations' members include organizations commonly known as "clubs" ("Member Clubs"), which must meet the relevant PMO membership requirements.
38. Coaches, affiliated judges, athletes, staff, club directors, executive members, any volunteers or supporters who provide the Member Clubs with services on a regular basis must be registered by the Member Club with the relevant PMO as "Registered Individual Members".
39. The policies, standards and procedures of PMOs apply to Member Clubs and Registered Individual Members.
40. At all material times, the PMOs exercised supervision and control over their respective Member Clubs and Registered Individual Members, including, in particular, coaches.

41. The PMOs may impose sanctions on any Member Club or Registered Individual Member who fails to comply with the policies, standards and procedures of the PMO, which includes the power to suspend or terminate membership.
42. Gymnastics Canada mandates that it must be informed of any serious complaints received by a PMO or Member Club.

Gymnastics B.C.

43. Gymnastics B.C. is a society incorporated under the *Societies Act* RSBC 1996, c 433. It was previously known as British Columbia Gymnastic Association and British Columbia Gymnastics Association. It has a registered office address at 268-828 W 8th Avenue W, Vancouver, British Columbia, V5Z 1E2.
44. At all material times, Gymnastics B.C. was and is a PMO. At all material times, Gymnastics B.C. paid membership fees to Gymnastics Canada.
45. At all material times Gymnastics B.C. was subject to and implemented Gymnastics Canada policies, standards and procedures for the sport of gymnastics in British Columbia.

Alberta Gymnastics Federation

46. Alberta Gymnastics Federation is a society incorporated under the laws of Alberta. It was previously known as "Alberta Gymnastic Federation", and has been known known as Alberta Gymnastics Federation since March 29, 2004. It has a registered office address at 207, 5800 2nd Street SW, Calgary, Alberta, T2H 0H2.
47. At all material times, Alberta Gymnastics Federation was and is a PMO At all material times, Alberta Gymnastics Federation paid membership fees to Gymnastics Canada.
48. At all material times, Alberta Gymnastics Federation was subject to and implemented Gymnastics Canada's policies, standards and procedures for the sport of gymnastics in Alberta.

Gymnastics Saskatchewan Inc.

49. Gymnastics Saskatchewan Inc. is a society incorporated under the laws of Saskatchewan. It has a registered office address at 300-1734 Elphinstone St, Regina, Saskatchewan, S4T 1K1.
50. At all material times, Gymnastics Saskatchewan Inc. was and is a PMO. At all material times, Gymnastics Saskatchewan paid membership fees to Gymnastics Canada.
51. At all material times Gymnastics Saskatchewan Inc. was subject to and implemented Gymnastics Canada policies, standards and procedures for the sport of gymnastics in Saskatchewan.

Manitoba Gymnastics Association Inc.

52. Manitoba Gymnastics Association Inc. is a not-for-profit corporation under the laws of Manitoba. It has a registered office address at 145 Pacific Ave, Winnipeg, Manitoba, R3B 2Z6.
53. At all material times, Manitoba Gymnastics Association Inc. was and is a PMO. At all material times, Manitoba Gymnastics Association Inc. paid membership fees to Gymnastics Canada.
54. At all material times, Manitoba Gymnastics Association Inc. was subject to and implemented Gymnastics Canada's policies, standards and procedures for the sport of gymnastics in Manitoba.

The Ontario Gymnastic Federation

55. The Ontario Gymnastic Federation is a not-for-profit corporation under the laws of Ontario. It was previously known as "Gymnastics Ontario", and has been known as The Ontario Gymnastic Federation since April 5, 2010. It has a registered office address at 2950 Keele Street, 202, Toronto, Ontario, M3M 2H2.

56. At all material times, The Ontario Gymnastic Federation was and is a PMO. At all material times, The Ontario Gymnastic Federation paid membership fees to Gymnastics Canada.
57. At all material times, The Ontario Gymnastic Federation was subject to and implemented Gymnastics Canada policies, standards and procedures for the sport of gymnastics in Ontario.

Fédération de Gymnastique du Québec

58. Fédération de Gymnastique du Québec is a society incorporated under the laws of Québec. It has a registered office address at 4545 Ave. Pierre-de-Coubertin, Montreal, Québec, H1V 0B2.
59. At all material times, Fédération de Gymnastique du Québec was and is a PMO. At all material times, Fédération de Gymnastique du Québec paid membership fees to Gymnastics Canada.
60. At all material times Fédération de Gymnastique du Québec was subject to and implemented Gymnastics Canada policies, standards and procedures for the sport of gymnastics in Québec.

THE ABUSE OF CANADIAN GYMNASTS

61. The Class Members were subjected to various forms of abusive conduct during the Class Period. The abuse often took place while the Class Members were minors, at gymnastics clubs, programs, activities and events throughout Canada.
62. The abuse took a variety of forms, and included:
 - (a) sexual assault and abuse, including but not limited to inappropriate sexual contact and sexual activity, such as sexual grabbing, kissing and fondling;
 - (b) physical abuse, including:
 - (i) slapping or pinching;

- (ii) over-stretching, over conditioning, and hyper extending of joints;
 - (iii) directing and requiring athletes to maintain an unhealthy weight;
 - (iv) forcing athletes to perform gymnastics skills without any or adequate training and/or safety equipment; and,
 - (v) forcing athletes to continue training when they were physically injured.
- (c) psychological abuse including:
- (i) public humiliation in the form of body-shaming regarding athletes' weight or physical appearance;
 - (ii) encouraging or forcing athletes to adhere to unhealthy and abusive weight monitoring and weight management tactics;
 - (iii) controlling and manipulative behavior which included ignoring athletes during training and competitions;
 - (iv) depriving athletes of necessary instruction, spotting, assistance and coaching;
 - (v) retaliatory punishments, including kicking athletes out of training for perceived poor performance during training or failure to follow instructions;
 - (vi) yelling, belittling and name-calling of athletes; and,
 - (vii) implicit and explicit threats to athletes' careers if athletes did not comply with instructions.
63. The perpetrators of the abuse were often coaches, but in some instances also included staff, administrators, physiotherapists and other employees, agents or

servants of Gymnastics Canada, PMOs, and/or Member Clubs under the jurisdiction and oversight of Gymnastics Canada and its PMOs.

64. Gymnastics Canada and the PMOs, including their employees and/or agents, tolerated and/or condoned the abuse perpetrated against the Class Members. In particular:
 - (a) Gymnastics Canada and PMO staff, employees and agents are desensitized to the abuse;
 - (b) Gymnastics Canada and PMO staff, employees and agents turned a blind eye to the abuse;
 - (c) Gymnastics Canada and PMO staff, employees and agents rewarded “results” without regard to the methods employed by coaches; Gymnastics Canada and PMO staff, employees and agents were quick to excuse the abuse;
 - (d) Gymnastics Canada and PMO staff, employees and agents refused to acknowledge the abuse; and,
 - (e) Gymnastics Canada and PMO staff, employees and agents did not respond appropriately and act on complaints when reported.
65. Gymnastics Canada and its PMOs created a culture and environment that discouraged athletes from reporting abuse and, when abuse was reported, failed to take any or adequate steps to protect the well-being of Amelia and other Class Members, adequately investigate the abuse, or appropriately sanction the perpetrators of the abuse.
66. In particular Gymnastics Canada and its PMOs failed to:
 - (a) educate coaches and staff on how to recognize abusive behaviour;

- (b) remedy widespread lack of awareness and understanding of relevant policies, including reporting procedures;
 - (c) make reporting procedures accessible;
 - (d) ensure that the investigation of abuse was independent, and not influenced by an individual's status or relationships within the gymnastics community;
 - (e) ensure that the investigation proceeded in a timely manner;
 - (f) offer medical or emotional support to individuals reporting abuse;
 - (g) address instances of retaliation against individuals reporting abuse;
 - (h) take adequate disciplinary measures against coaches found to have engaged in abusive behavior;
 - (i) provide adequate opportunities to escalate complaints or have decisions reviewed;
 - (j) take adequate steps to inform other PMOs of disciplinary measures taken against coaches found to have engaged in abusive behavior; and,
 - (k) inform parents of athletes that their coaches had a history of sanctioned abusive behaviour.
67. Class Members who do report abuse are subject to retaliation and negative repercussions, including:
- (a) being ignored at practice, or given significantly less attention and coaching;
 - (b) being excluded from activities, events, or competitions;
 - (c) having their Olympic or international career aspirations threatened;
 - (d) being stigmatized as "weak"; and,

(e) being stigmatized as a “problem” athlete, and having their reputations tarnished in the gymnastics community.

68. At all material times during the Class Period, Class Members felt pressure to accept the abuse or risk social exclusion, further abuse, and/or career consequences.

Systemic Negligence

Gymnastics Canada

69. Gymnastics Canada owed a duty of care to Amelia and the Class Members to create and maintain an environment that was free from physical, sexual and psychological abuse. This duty of care arose from Gymnastics Canada’s:

- (a) role as the national governing body for the sport of gymnastics in Canada, with broad responsibility for business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, and travel associated with activities;
- (b) responsibility to provide a safe and supportive environment for gymnasts that was free from physical, psychological and sexual abuse;
- (c) responsibility for developing, implementing and enforcing policies, standards and procedures, including policies, standards and procedures related to preventing and addressing abuse;
- (d) responsibility for screening, training, supervising and disciplining coaches and staff involved in Gymnastics Canada, PMO and Member Club programs and activities;
- (e) knowledge of the specific risks of abuse in the sport of gymnastics arising from the authority granted to coaches and other adult staff to exercise influence and control over a gymnast’s training and lifestyle;

- (f) knowledge of the power imbalance inherent in the relationship between gymnasts and coaches or other adult staff;
- (g) knowledge of the prevalence of abusive practices in the sport of gymnastics across Canada; and,
- (h) obligation to monitor the conduct of coaches and other adult staff involved in Gymnastics Canada, PMO and Member Club programs and activities including the obligation to investigate and address complaints of abuse.

PMOs

70. The PMOs owed a duty of care to Amelia and the Class Members to create and maintain an environment that was free from physical, sexual and psychological abuse. This duty of care arose from the PMOs’:

- (a) role as the provincial governing bodies, with responsibility for business, activities, and events including, but not limited to, competitions, practices, tryouts, training camps, and travel associated with activities;
- (b) responsibility to provide a safe and supportive environment for gymnasts that was free from physical, psychological and sexual abuse;
- (c) responsibility for developing, implementing and enforcing policies, standards and procedures, including policies, standards and procedures related to preventing abuse;
- (d) responsibility for screening, training, supervising and disciplining coaches and staff involved in PMOs’ and Member Clubs’ programs and activities;
- (e) knowledge of the specific risks of abuse in the sport of gymnastics arising from the authority granted to coaches and other adult staff to exercise influence and control over a gymnast’s training and lifestyle;
- (f) knowledge of the power imbalance inherent in the relationship between gymnasts and coaches or other adult staff;

- (g) knowledge of the prevalence of abusive practices in the sport of gymnastics across Canada; and,
- (h) obligation to monitor the conduct of coaches and other adult staff involved in PMOs' and Member Clubs' programs and activities including the obligation to investigate and address complaints of abuse.

Harm and Relationships

- 71. The harm suffered by Amelia and the Class Members was a reasonably foreseeable consequence of the acts and omissions of Gymnastics Canada, its PMOs and their employees, agents and servants.
- 72. Gymnastics Canada and its PMOs were in a position of power and authority and stood *in loco parentis* with Amelia and the Class Members. At all material times, the actions of Gymnastics Canada and its PMOs had a direct impact on Amelia and the Class Members. Gymnastics Canada and its PMOs were directly and solely responsible for providing facilities, programs and events that were free from abuse. In such circumstances, the harm contemplated in this action was reasonably foreseeable.
- 73. There was a direct and proximate relationship between the Class Members and Gymnastics Canada and the PMOs, including but not limited to:
 - (a) The interactions between the Class Members and Gymnastics Canada, its PMOs and Member Clubs; and,
 - (b) the close and direct supervisory relationship between the Class Members and Gymnastics Canada, the PMOs and Member Clubs.
- 74. Gymnastics Canada and the PMOs' employees, servants and agents repeatedly made representations to Amelia and the Class Members that they were taking appropriate steps to prevent abusive conduct in the sport of gymnastics. Such representations were relied on by Amelia and the Class Members, as well as their parents and guardians, in joining and continuing to participate in the sport.

75. Gymnastics Canada and the PMOs breached their common law duties to Amelia and the Class Members through their failure to properly supervise, monitor, oversee and control gymnastics programs, activities, and/or events.
76. In particular, Gymnastics Canada and the PMOs breached the standard of care by:
 - (a) creating a culture and environment where Class Members were subjected to the abuse;
 - (b) failing to use reasonable care to ensure the safety, well-being and protection of the Class Members;
 - (c) failing to implement and/or enforce adequate policies to prevent and address the abuse;
 - (d) failing to have training and programs in place to ensure any policies would be adequately enforced;
 - (e) failing to have in place adequate reporting procedures to address complaints about the abuse;
 - (f) failing to respond adequately, or at all, to complaints about the abuse;
 - (g) failing to adequately sanction perpetrators of abuse, and at times even promoting perpetrators to high level positions such as national team coach;
 - (h) in the case of Gymnastics Canada, failing to take adequate or any steps to suspend, discipline or expel PMOs and Registered Participants, that it knew or ought to have known were not taking any or adequate steps to protect gymnasts from abuse;
 - (i) in the case of PMOs, failing to take adequate or any steps to suspend, discipline or expel Member Clubs and/or Registered Individual Members

that it knew or ought to have known were not taking any or adequate steps to protect gymnasts from abuse;

- (j) failing to take adequate steps to inform other PMOs and Member Clubs when a perpetrator was sanctioned, thereby allowing perpetrators to move freely between and continue their abusive practices at other PMOs and Member Clubs; and,
- (k) failing to take proper and reasonable steps to protect Class Members in circumstances where they knew or ought to have known that gymnasts were being abused.

77. The Defendants' negligence caused damages to the Class Members as further particularized below.

Breach of Fiduciary Duty

78. Amelia and the Class Members, many of whom were minors at the time they were abused, spent long hours, removed from their family, in the complete care and control of the Defendants and their Member Clubs. The Class Members trusted, relied on and depended on Gymnastics Canada and the PMO in their respective jurisdiction. The Defendants' relationship to the Class Members was one of *loco parentis*, or that of a parent.

79. In addition, the Defendants had power or control over the Class Members by virtue of the influence they held over Class Members' futures and ability to pursue careers in gymnastics. The Defendants held discretionary power over the vulnerable Class Members' interests, which power could be wielded unilaterally.

80. By virtue of the relationship between the Class Members and the Defendants, the Defendants owed fiduciary duties to care for them and protect them and act in their best interests at all times.

81. Gymnastics Canada and the PMOs breached their fiduciary duty to Amelia and the Class Members by failing to properly supervise, monitor, oversee and control gymnastics programs, activities, or events.
82. In particular, Gymnastics Canada and the PMOs breached their fiduciary duties by:
 - (a) creating a culture and environment where Class Members were subjected to the abuse;
 - (b) failing to use reasonable care to ensure the safety, well-being and protection of the Class Members;
 - (c) failing to design implement and/or enforce adequate policies to prevent and address the abuse;
 - (d) failing to have training and programs in place to ensure any policies would be adequately enforced;
 - (e) failing to have in place adequate reporting procedures to address complaints about the abuse;
 - (f) failing to respond adequately, or at all, to complaints about the abuse;
 - (g) failing to adequately sanction perpetrators of abuse;
 - (h) in the case of Gymnastics Canada, failing to take adequate or any steps to suspend, discipline or expel PMOs and Registered Participants that it knew or ought to have known were not taking any or adequate steps to protect gymnasts from abuse;
 - (i) in the case of PMOs, failing to take adequate or any steps to suspend, discipline or expel Member Clubs and/or Registered Individual Members that it knew or ought to have known were not taking any or adequate steps to protect gymnasts from abuse; and,

- (j) failing to take proper and reasonable steps to protect Class Members in circumstances where they knew or ought to have known that gymnasts were being abused.
83. The Class Members had a reasonable expectation that the Defendants would act in their best interests with respect to their well-being given the assumption of responsibility of care for Class Members by virtue of:
- (a) the Defendants' supervision and control of their respective members;
 - (b) the hierarchical and authoritarian coaching practices and the requirements for obedience;
 - (c) the significant power and authority of the Defendants over the Class Members;
 - (d) the Defendants' assumption of responsibility for the care of the Class Members; and,
 - (e) the dependence of the Class Members on the Defendants for their care, development, coaching and future prospects.
84. Given the nature of the relationship between the Defendants and the Class Members, including but not limited to the Defendants' care and control over the Class Members, the Defendants undertook to act in the best interests of the Class Members and to act in accordance with the duty of loyalty imposed upon the Defendants.
85. Further, the Defendants' repeated assurances throughout the Class Period that they had appropriate policies and procedures to prevent and address the abuse constituted an undertaking of responsibility to act in the best interest of the Class Members and to act in accordance with a duty of loyalty in which the Class Members' interest would be put ahead of the Defendants' interests in ensuring that the abuse did not occur.

86. The Defendants were required, and failed, to put the interests of the Class Members ahead of their own interests, including while investigating complaints of abuse.
87. Amelia and the Class Members were entitled to rely, and did rely on the Defendants to fulfill their fiduciary duties to the Class Members' detriment. Amelia and the Class Members are particularly vulnerable, and such vulnerability arises directly from their relationship with the Defendants. The Class Members relied on the Defendants to prevent the abuse. Not only did the Defendants fail to prevent the abuse, all levels of leadership tolerated and/or condoned the abuse, and the culture and environment that allowed it to occur.
88. Gymnastics Canada and the PMOs knew or ought to have known that as a consequence of their actions, Amelia and the Class Members would and did suffer damages, as particularized below.

Vicarious Liability

89. Gymnastics Canada is vicariously liable for the abuse the Class Members suffered.
90. The Provincial Member Organizations are vicariously liable for the abuse suffered by Class Members in their respective jurisdictions.
91. The relationship between Gymnastics Canada and the Class Members is sufficiently close such that they are vicariously liable for the conduct of coaches and other adult staff. This is because:
 - (a) Gymnastics Canada had the ability and the obligation to exercise a high degree of control over the Member Clubs' operations including through its ability to set and enforce policies for PMOs, including policies and procedures related to preventing and addressing abuse and investigating and reporting abuse;
 - (b) Gymnastics Canada exercised a high degree of control over the selection, screening, training and supervising of National team coaches and staff;

- (c) Gymnastics Canada, through its failure to create and enforce a safe sport culture, created an opportunity and a risk for abuse to occur;
 - (d) certain aspects of the abuse, including forced over-stretching, hyperextension, and abusive weight management tactics assisted Gymnastics Canada and its associated coaches in its goals to further their athletes' performance in the sport and its standing on the international stage; and,
 - (e) at all material times, gymnasts participating in gymnastics programs, whether they were recreational or competitive, paid membership fees, either directly or indirectly, to Gymnastics Canada and the PMO in their jurisdiction.
92. The relationship between the PMOs and the Class Members is sufficiently close such that the PMOs are vicariously liable for the conduct of coaches and other adult staff in their respective jurisdictions which resulted in harm to the Class Members. This is because:
- (a) the PMOs exercised a high degree of control over their own operations and their Member Clubs' operations including through their ability to set and enforce policies, including policies and procedures related to preventing and addressing abuse and investigating and reporting abuse;
 - (b) the PMOs exercised a high degree of control over gymnastics events and activities in their respective jurisdictions and the operation of Member Clubs including the responsibility for screening, training and supervising coaches and staff;
 - (c) the PMOs, through their failure to create and enforce a safe sport culture, created an opportunity and a risk for abuse to occur;
 - (d) certain aspects of the abuse, including forced over-stretching, hyperextension, and abusive weight management tactics assisted the

PMOs and their associated coaches in their goals to further their athletes' performance in the sport and their standing on the national and international stage; and,

- (e) at all material times, gymnasts participating in gymnastics programs, whether they were recreational or competitive, paid membership fees, either directly or indirectly, to the relevant PMO in its jurisdiction.

DAMAGES

93. As a result of the abuse, the Class Members have suffered significant damage including but not limited to:

- (a) pain and suffering;
- (b) psychological injuries, including depression, anxiety, panic attacks, PTSD and suicidal thoughts;
- (c) body dysmorphia and disordered eating;
- (d) stunted growth and developmental delays;
- (e) addiction issues;
- (f) inability to have normal and healthy sexual development;
- (g) sexual trauma;
- (h) impaired ability to develop and maintain normal and healthy relationships, both friendships and intimate relationships;
- (i) fear, humiliation and embarrassment as a child and adult;
- (j) impaired ability to control anger;
- (k) development of unhealthy coping mechanisms;
- (l) physical injury and chronic pain;

- (m) loss of employment both in the past and continuing in the future;
- (n) cost of care, past and future; and,
- (o) out of pocket expenses arising from or related to the abuse.

PART 2: RELIEF SOUGHT

94. Amelia, on her own behalf and on behalf of the Class Members, seeks:

- (a) an order certifying this action as a class proceeding against the Defendants and appointing Amelia as representative Plaintiff in respect of the Class;
- (b) a declaration that the Defendants are liable for damages arising from their breaches of common law duties owed to Amelia and the Class Members;
- (c) a declaration that the Defendants are liable for damages arising from their breaches of fiduciary duties owed to Amelia and the Class Members;
- (d) a declaration that the Defendants are vicariously liable for the abuse of Amelia and the Class Members;
- (e) an order directing Gymnastics Canada and its PMOs to implement, apply and follow appropriate governance procedures for national and provincial sport governing bodies so that the physical and psychological health of gymnastics athletes is prioritized and protected;
- (f) past and future costs of health care services pursuant to the *Health Care Costs Recovery Act*, SBC 2008, c. 27 and any other applicable Provincial Health Insurer legislation;
- (g) punitive damages;
- (h) aggravated damages;

- (i) damages in an amount to be fixed by the Court for the costs of providing notice of certification of this action as a class proceeding, and for administration of the plan of distribution of any recovery in this action;
- (j) prejudgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 78, s 128; and,
- (k) such further and other damages as may be incurred by the Class from the date hereof until the ultimate disposition of this matter, particulars of which will be provided prior to trial.

PART 3: LEGAL BASIS

Systemic Negligence

- 95. Each of the Defendants owed a duty of care to the Class Members.
- 96. The Defendants breached their respective duties of care by failing to protect the Class Members from abuse during the Class Period.
- 97. As a result of the Defendants' breach of their common law duties, Amelia and the Class Members suffered damages. The damage suffered by Amelia and the Class Members was caused solely by the negligence of the Defendants.
- 98. The Defendants are jointly and severally liable for the damage suffered by Amelia and the Class Members.

Breach of Fiduciary Duty

- 99. Each of the Defendants owed a fiduciary duty to the Class Members.
- 100. The Defendants breached their respective fiduciary duties by failing to protect the Class Members from abuse during the Class Period. The Defendants failed to act in the Class Members' best interests and placed their interests over the interests of the Class Members.

101. As a result of the Defendants' breach of their fiduciary duties, Amelia and the Class Members suffered damages.

Vicarious Liability

102. The abuse perpetrated by the abusers against the Class Members constitutes assault, battery, a breach of fiduciary duty, a breach of trust or confidence, intentional infliction of pain, suffering and mental distress and/or negligence.

103. Gymnastics Canada and the Provincial Member Organizations are vicariously liable for the abuse the Class Members suffered.

Aggravated damages

104. The Defendants had specific knowledge of the widespread physical, psychological and sexual abuse suffered by the Class Members. Despite this knowledge, the Defendants continued to permit the abuse to occur.

105. The Defendants aggravated the damages suffered by Class Members. Factors giving rise to aggravated and punitive damages include:

- (a) ignoring or dismissing Class Members who reported that they were abused;
- (b) prioritizing the interests of the Defendants and/or individuals with standing in the gymnastics community over the interests of the Class Members;
- (c) failing to take steps to address the reports of abuse by the Class Members such as:
 - (i) contacting the police and governing regulatory authorities;
 - (ii) suspending or revoking the rights of coaches and other perpetrators of the abuse to participate in gymnastics events; and,
 - (iii) assisting the Class Members with accessing counselling or other support services.

Punitive Damages

106. The conduct of the Defendants as described above is deserving of condemnation and punishment. Compensatory damages alone are inadequate.

Plaintiff's address for service:

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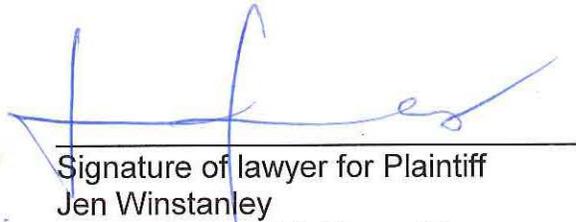
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Email: vlord@hshlawyers.com

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: 11/MAY/2022

*Laura Jones
Fok:
Signed with
permission*



Signature of lawyer for Plaintiff
Jen Winstanley
Camp Fiorante Matthews Mogerman LLP

ENDORSEMENT ON ORIGINATING PLEADING FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff claims the right to serve this pleading on the Defendants outside British Columbia on the ground that it concerns a tort committed in British Columbia as per section 10(g) of the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

CONCISE SUMMARY OF NATURE OF CLAIM:

This action arises from the physical, sexual, and psychological abuse of gymnasts in Canada while they were under the care and control of the provincial gymnastics organisation in their jurisdiction and Gymnastics Canada. The claim alleges that the Defendants breached common law and fiduciary duties owed to the class members by, *inter alia*, failing to prevent the abuse.

THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects

- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

1. *Class Proceedings Act*, RSBC, 1996 c 50.
2. *Negligence Act*, RSBC, 1996 c 333.