

# MERCHANT LAW GROUP

(AN INTERPROVINCIAL LAW FIRM)

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PRACTISES UNDER  
CORPORATION §

E. F. ANTHONY MERCHANT, Q.C. §  
MICHAEL R. TROY  
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JEREMY C.A. CAISSIE  
Residing in **YORKTON**  
JORDAN C. BIENERT  
Residing in **CALGARY**  
JAMIE CRAMER ◻  
Residing in **WINNIPEG**  
DARREN WILLIAMS  
IN ARTICLES -

DAVID A. HALVORSEN §  
CASEY CHURKO  
ROBERT G. CROWE \*  
MICHAEL MANTYKA  
JONATHAN CROSS -  
PETER MANOUSOS  
RYAN TKACHUK ◻  
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JANE ANN SUMMERS  
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IN ARTICLES (ALBERTA) ◻

HENRI P.V. CHABANOLE ◻§  
STEVEN A. HAICHERT -  
TIMOTHY E. TURPLE  
EVATT F.A. MERCHANT  
TREVOR NEWELL  
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KEVIN LIESLAR  
HOWARD TENNENHOUSE  
WILLIAM G. SLATER  
Residing in **MONTREAL**  
REGISTERED MEDIATOR ◻

**Please sign this letter of retainer and return the copy to our office by mail**

Dear:

**Re: Agent Orange Class Action**

On July 12, 2005 our firm launched a class action in the Federal Court of Canada on behalf of plaintiffs who claim to have suffered various types of harm and injury as a result of the use and disposal of Agent Orange, Agent Purple, or Agent White at CFB Gagetown between 1956 to 1985. That action was stayed in the Federal Court when the government moved to join Monsanto and Dow as third party defendants with the result that we began issuing proceedings in May 2006 in various superior courts in the provinces. We believe we have an even stronger case now than we did a year plus ago when we began this work to achieve justice, as we see it, for the victims of government action in the Gagetown area.

**If you were a member of the military, the family of a military member, a visitor, or a civilian or owned or own land in the CFB Gagetown area, or lived in the area at material times, and have suffered or expect to suffer one or more of the injuries listed, you are entitled to participate in the class action, if you meet the criteria of the following definition:**

All individuals (including their estates) who claim to have suffered or expect to suffer injury to their persons or their property as a result of the spraying of various chemicals by the Defendant between 1956 and 1984 at CFB Gagetown; the injuries include:

- i) one of more of the following illnesses and losses consequent thereon:
  - Cancer - lung, stomach, soft tissue, liver
  - Skin disorders - chloracne, hyperpigmentation, hirsutism
  - Male reproductive toxicity - reduced sperm count, testicular atrophy,

abnormal testis structure, reduced size of genital organs, lower male hormone levels, feminization of hormonal, and behavioural responses

Female reproductive toxicity - hormonal changes, decreased fertility, inability to maintain pregnancy, ovarian dysfunction, endometriosis

On unborn fetus - birth defects, alterations in reproductive system, decreased sperm count, altered mating behavior, structural abnormalities in female genitalia, reduced fertility, delayed puberty, neurological problems, developmental problems

Hormonal Changes including alterations in sex, thyroid, digestive and other hormones

Immune suppression and increased susceptibility to infectious diseases

Metabolic changes including altered glucose response, decreased insulin levels, altered fat metabolism, weight loss, wasting syndrome, fetal death

Neurological Symptoms - headaches, muscle weakness, reduced sex drive, dizziness, nervousness, difficulties with erection, irritability, anxiety, decreased mental efficiency, depression, crying spells, insomnia, apathy, fatigue, loss of feeling in extremities, tremor, slowed thinking, tingling in toes and fingers, numbness, social withdrawal, slowed nerve conduction velocity, anorexia, trouble concentrating

Damage to liver, thymus, spleen, and bone marrow

Damage to heart leading to arrhythmias

Diabetes

Lung Problems

chronic pain and suffering;

Such other illnesses as are proved to be capable of being caused by the chemicals.

- ii) death after contracting one of the illnesses described in i);
- iii) loss of companionship of a mother, father, son, daughter, or sibling who died after contracting one of the illnesses described in i);
- iv) The additional costs of raising a disabled child;
- v) mental suffering as a result of having one or more miscarriages, and losses associated with pregnancy including loss of employment, loss of mobility, pain and suffering occurring during pregnancy and during childbirth and loss of an opportunity to have an abortion after becoming pregnant with a child that was likely to be born with a disability;
- vi) reduced income and diminished quality of life as a result of being born with a disability; and
- vii) property losses:

- a. reduced value of land
  - b. costs to test for contamination in land
  - c. costs to remove contamination in land
- viii) Enhanced risk of future injury
- ix) Medical surveillance expenses
- x) Fear of contracting a serious disease

It is important to know that even if the action is certified, a class action is designed to fairly and efficiently resolve a number of questions that each Class Member has in common.

- A. What was sprayed, when, where, and how much?
- B. Did what was sprayed "escape" from the land controlled by the Defendant, and if so, where, when, and how much?
- C. Under all of the circumstances, what were and are the natural consequences of the escape of the chemicals that were sprayed?
- D. Can what was sprayed cause, materially contribute to, or materially contribute to the risk of any of the injuries and harms claimed for and if so, which injuries or harms?
- E. Which class or classes of persons, if any, did the Defendant owe a private law duty of care to?
- F. What was the standard of care expected of the Defendant in spraying the chemicals and subsequently dealing with the concerns arising from the spraying and how, if at all, did it change over time?
- G. Did the Defendant breach the standard of care as determined?
- H. If so, what are the appropriate remedies for each class of persons?
- I. Does the conduct of the Defendant under all of the circumstances merit an award of punitive damages?

The answers to one or more of these questions may significantly advance your personal claim against the Government. However, the Court may ultimately require you to prove the types of illnesses you have suffered and other facts that are unique to your own circumstances.

At this time, you can assist, the proposed representative plaintiffs, who will assist our firm in advancing your claim(s) against the government, by providing us with the following information:

- (1) The types of health problems you suffer or expect to suffer from and copies of any medical records you may have.
- (2) When you were stationed at or lived around CFB Gagetown, that is, the years you

were present near the base.

- (3) Whether you owned any land around the base at any time.
- (4) Any public representations the government made at any time.
- (5) Anything else you think may be of interest to us.

Our law firm is accepting you as a client based on an agreement between you and our firm that for our legal services and advocacy, our firm will be paid: a 25% contingency fee from your share of any compensation or benefits that you receive as a result of exposure to Agent Orange or similar toxins, plus reimbursement of our disbursement expenses, and that our firm will retain any costs awarded; subject to any legislation or rules which entitle you to apply to a court with respect to court approval or taxation of contingency fees or counsel fees in class action proceedings (for example, section 64(3) of *The Legal Profession Act, 1990*, S.S. 1990-91, c. L.-10.1, and *The Federal Court Rules, 1998*.) Please indicate your willingness to participate in this proposed class action on these terms by signing your name and confirming below your address, telephone, and email (if available).

***Please then return this letter to us by mail, and retain the enclosed yellow copy of this letter.*** Then, at your convenience, please write to us with information about your circumstances, including any health problems experienced by you or members of your family which you believe have been caused by Agent Orange, White, or Purple, which were sprayed.

A recent study showed chemical levels in parts of Camp Gagetown to be fifty times allowable levels! Fifty times now and likely higher in the past!

**Please inform anyone else who may have a claim for Agent Orange exposure to contact us at 1-888-567-7777 or [tmars@merchantlaw.com](mailto:tmars@merchantlaw.com). There are signs, including statements from Prime Minister Harper that the government's wrongheaded prior position is changing. The battle to achieve fairness will continue and we are making progress.**

Thank you.

Yours truly,

**MERCHANT LAW GROUP**

Per:

CASEY R. CHURKO

CRC/tm

***\*Enclosures\****

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(Signature & Date)

Please confirm below your address, telephone, and email(if available)