

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

NATHALIE DEACON and GAIL OUELLETTE

Plaintiffs

- and -

THE BANK OF NOVA SCOTIA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

REPLY

1. Except as expressly admitted in the Statement of Claim or herein,¹ the plaintiffs deny each and every allegation contained in the Statement of Defence.
2. Paragraph 30 of the Statement of Defence is inconsistent with the pay documents provided to the plaintiffs and other class members. The defendant's pleadings with respect to the percentage of vacation and holiday pay paid to class members do not reconcile with these documents.
3. With respect to paragraphs 32, 61-62, and 66-67 of the Statement of Defence, the offer letters and Compensation Policy do not apply to exclude liability for the claims raised in this proceeding. The Compensation Policy did and does not disclose the material information that HFAs are no longer receiving vacation and holiday pay in addition to their

¹ Capitalized words have the meanings provided in the Statement of Claim unless otherwise indicated.

other compensation. The Compensation Policy is internally inconsistent. Further, and in any event, parties cannot contract out of vacation and holiday pay entitlements under the *CLC*.

4. With respect to paragraph 60 of the Statement of Defence, Ms. Deacon did not consent to be paid less than her statutory vacation and holiday pay entitlement, nor would such alleged consent if it existed (which is denied) exclude liability under the *CLC*.

5. With respect to paragraphs 69-74 of the Statement of Defence, this proceeding was commenced within the applicable limitation period. Among other things, the plaintiffs and other class members plead and rely upon the doctrine of discoverability. Further, a rolling limitation period applies to the claims raised in this proceeding.

6. With respect to footnote 2 of the Statement of Defence, the plaintiffs plead and rely upon section 28 of the *Class Proceedings Act, 1992*, which applies to all class members.

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NATHALIE DEACON and GAIL OUELLETTE
Plaintiffs

Court File No. CV-23-00702820-00CP
-and- **THE BANK OF NOVA SCOTIA**
Defendant

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PROCEEDING COMMENCED AT TORONTO

Proceeding under the *Class Proceedings Act, 1992*

REPLY

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