

Members First

The official newsletter of The Mounted Police Members' Legal Fund

Fall 2012



It is crucial to remember that all lessons learned and all benefits derived from actions supported by the Mounted Police Members' Legal Fund (MPMLF) accrue to all regular and civilian members of the Royal Canadian Mounted Police regardless of whether you are a member of the MPMLF or not. Examples of this can be found in practically all the Newsletters copies which are available on our Web Site at www.mplegalfund.com. For these reasons alone it is important for you to show your support.

Are you a member of the MPMLF? If not, you should be! See some of the other reasons in this Newsletter.

To become a member, please submit an application form, a fax or an email to your Staff Relations Representative (SRR) or Sub-Representative with your regimental number, name, current posting and your permission to deduct the biweekly payment from your regular pay. For additional information don't forget to check our web site at www.mplegalfund.com.

THE FOLLOWING IS A COPY OF A MESSAGE SENT OUT ACROSS THE FORCE IN JULY 2012. IT IS BEING REPRINTED IN THIS PUBLICATION AS WE UNDERSTAND THAT MANY MEMBERS FAILED TO RECEIVE IT. THE INCORRECT AND MISLEADING INFORMATION REFERRED TO CAUSED A FEW MEMBERS OF THE LEGAL FUND TO GIVE UP THEIR MEMBERSHIP. SINCE PUBLICATION, SOME OF THOSE MEMBERS HAVE ASKED TO HAVE THEIR MEMBERSHIP REINSTATED.

This is a message from the Secretary/Treasurer of the Mounted Police Members' Legal Fund (Legal Fund) to all members and potential members of the Legal Fund.

Within the past few weeks it has come to my attention that many members have received incorrect and misleading information with respect to the operation of the Legal Fund and the administration of the funds entrusted to it by the membership.

I am a retired member of the RCMP and not a member of the Legal Fund. I have however been associated with the Legal Fund since its inception in 1997 and consider I know as much

about it as anyone can. As the Treasurer I must prepare for the yearly audit by Deloitte Touche ensuring that the funds were properly spent and accounted for according to the Letters Patent and Bylaws of the Corporation. As the Secretary I am responsible for the maintenance and upkeep of files generated by hundreds of requests for assistance that Legal Fund members have submitted and that have been handled by the Legal Fund Directors over the years of its existence.

With over 17,000 members enrolled in the Legal Fund it is difficult to please everyone whether a particular request is approved or rejected. The incorrect and misleading information

being disseminated to members appears to focus on one project instead of informing members of the many other matters that have been handled for the well-being of individuals as well as the general membership and indeed, the total membership of the Force. The issue being publicized appears to be the Legal Fund's position as an Intervener in the MPAO. The Legal Fund is a private, not-for-profit Corporation started and administered by Directors who are either Staff Relations Representatives or Sub/Representatives elected by you to handle your affairs, however it is completely separate from the SRR Program and the Force.

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Information

The MPMLF is a private not-for-profit corporation under the direction of the majority of the Royal Canadian Mounted Police (RCMP) Staff Relations Representatives (SRRs). The views expressed in any material published in this Newsletter are those of the authors and do not reflect those of the RCMP.

Suggestions and contributions from members of the MPMLF are welcomed and encouraged. Please direct your comments to your SRR.

MPMLF National Executive Committee:

Sgt. Paul Joyal –
“D” Division – Chairperson
S/Sgt. Brian Mayrs –
“F” Division – Vice Chairperson
S/Sgt. Richard Marsh –
“E” Division – Member
S/Sgt. Tim Gilbert –
“K” Division – Member
Sgt. Gary Styles –
“B” Division – Member

MPMLF Staff:

A. Gordon Clarke, Secretary/Treasurer,
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When we take on an issue, we are convinced it is in the best interests of the membership and that justice will triumph.

We are not afraid of the cost, hiring the best lawyers available to work in your interest.

We cannot however predict how the court will rule.

The following is a letter...

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Why then did the Legal Fund become involved as an Intervener in the MPAO?

In 2006 legal action was undertaken in the Ontario Superior Court by the MPAO and the BCMPPA. In striking down Section 96 of the RCMP Regulations, which recognizes the Staff Relations Representatives, the Ontario Superior Court on April 6, 2009 concluded that the RCMP labor relations system, a system agreed to by RCMP members and in which management has a contractual obligation to deal with and respond to the collective views of democratically elected representatives, was invalid because it substantially interfered with the freedom of association of RCMP members, thus violating Section 2(d) of the Charter.

Up to this point in time the Legal Fund was not a participant in this court activity. Consistent with its objectives, the Legal Fund sought and was granted Intervener status on appeal because of the impact the decision and reasons for judgment would have on the approximately 17,000 Legal Fund members (14,000 at that time), including their welfare and the continuum of protection which the Legal Fund provides to them, and if the Legal Fund would continue to exist. It was vitally important your Legal Fund not depend on others to tell the story of your Legal Fund to the court. As interveners council for the Legal Fund was able to inform the court accurately in relation to your Legal Fund activities.

The Legal Fund had a well-informed perspective concerning what systems of labour relations could work and be respectful of employee's rights in the RCMP. That perspective included the implications of the court's decision on labor relations regimes that are not based on the traditional adversarial union versus management models. But most importantly, the Court of Appeal needed to know exactly what the Legal Fund does for members and its valuable contribution to ensure the welfare and dignity of its members were at the forefront. Legal Fund council was successful in telling your story, its story to the Court of Appeal.

One thing the Legal Fund Directors agreed to when they established the Legal Fund was that

there would be no secrets from the membership. We answer all questions received from members to the best of our ability. Most members want to know what we are spending their money on and whether there is a yearly audit. These questions are fairly simple to answer. Each month three financial statements are produced:

1. Statement showing funds received from each Division for each month of the current year as a result of pay deductions and the monthly interest received on funds in the bank account.
2. Statement of funds received for the current month as a result of pay deductions, interest and awards from court proceedings where we have won. This statement also shows where the funds were spent, for what and on whom.
3. Statement showing complete general list of funds received by the Legal Fund from a number of sources since inception in 1997 (pay deductions, interest, donations, court awards) and a complete general list of where the funds were spent (legal fees, postage, telephone/fax, consulting, printing, office supplies, etc. etc.) While I would like to share with you the names of the many members that have come to the Legal Fund for assistance, as I said, because of the confidential nature I can't, however if you go to www.mplegalfund.com and check the Newsletters there are many examples where the members have given us permission to tell their story or use their names.

Nationally the Legal Fund has taken on issues which have had a positive effect on all members of the RCMP, including non-members of the Legal Fund, issues such as: cadet's room and board; definition of employee for newly engaged cadets; payment of EI premiums after 20 years of service; pension surplus challenge; taxation of income of aboriginal members; civilianization of air services; lab and fingerprint group pay; taxation of retirement moves; civilian category study (over the years including the present, 3 times); Officer (Member) Safety (Vests, No. of members in patrol cars, etc.); ETECs Pay and Benefits Shared Services; Member Compensation (Each pay negotiation since inception including the Pay Roll Back in 2008 where we won in court but presently

awaiting decision from the appeal court.); **Michael Ferguson** - Appeal of Conviction for Manslaughter. On duty incident. High profile case which cost the Legal Fund in excess of \$200,000. The member would never have been able to afford without his membership in the Legal Fund. **Paul Shephard** - Promotional exams and access to exam material after being advised of exam results (This was a fantastic win for the membership of the Force). **John Hudak** - Accusation of Sexual Assault (Falsely accused of Sexual Assault. Faulty investigation done by RCMP. Trial and acquittal. Complainant had made similar complaint against a police officer in the US years earlier and she was sentenced to gaol time. Civil suit against the Crown and the Province of Alberta because of damage done to Hudak and his career in ruin. Public apology given by the Province of Alberta and he received a financial settlement. Now living in B.C.). Each of the 3 above cases were reported in our Newsletters.

Emergency Response Team Overtime; Travel Directive; Intervention Ontario Superior Court - This was necessary only to protect the 17,000 (14,000) members of the Legal Fund as the court had been given incorrect information about the purpose of support given and representation to members by the Fund; RCMP Modernization Act; Plain Clothes Allowance; Retro Cadet Pay; Resourcing Methodology Ontario Health Premiums; Challenge of RCMP Hearing Standards; Integrated Relocation Program (IRP); Long Term ODS/Leave Credits; Breach of Compensation Group Benefit Medical Entitlements; RCMP Pilot Pay; Procedural Fairness/Natural Justice; New RCMP Act, Bill C-42 Some of these we won, some we lost and some we are still working on.

We have had hundreds of requests for assistance from individual members. For the most part they seem to lend themselves to a number of common categories. I will list the most common here: Assault; Harassment; Defamation; Duty to Accommodate; Promotion; Disability; Malicious Prosecution

There are many others where members have felt they have been aggrieved, have not been supported by the Force, and have been approved by a Legal Fund Division Board for assistance such as: Appropriate officer representative (AOR) conduct; Suspended without pay (SWOP); Relocation; Access to

Information (ATIP); Human Rights; Denial of Legal Fees at public expense; Release of medical Information; Medical Discharge; Classification; Pension Buyback; On duty Injury; Transfer difficulties; Security Clearance; Health Problems; Refusal of RCMP to investigate criminal complaint; Constructive Dismissal; Non Payment for Standby Hours; Conflict of Interest Policy; Relapse Prevention Agreement; RCMP Housing Problems; Pension Issue; Election for Prior Service; Service Pay; Unfairness of Grievance System; Violation of Privacy; Conditional Sentence of member; Reimbursement of Mortgage Fee; Language Profile; Security clearance; Hearing loss; Protection of identity; Recognition of salary for past police experience; Abuse of process; Abuse of Authority; Election of prior service; Removal from a position; Training exercise resulting in civil suit; On duty injury; Frivolous and vexatious complaints against members; Miscarriage of justice; Wrongful death; Appeal of criminal conviction; Pension act claim for disability; Veterans affairs (VAC) appeal of claim; Slanderous comments; On call/backlog; Police commission hearings; Preservation of client solicitor privilege; Refusal of Crown to pay legal fees at public expense for on duty incidents; Release of discipline file in McNeil disclosure; Private Accommodation Allowance (PAA) - member submits claim for Jan 2010, denied, grieved, adjudicator rules in favor of member in June 2011. RCMP still refuse to pay. Member seeks Legal Fund assistance. Commissioner is served with Notice to pay member by a certain date, otherwise application will be sought in Federal Court for a writ of Mandamus. Good news - July 2012- the member's claim of \$1,350.00 is paid. Other members will now have to be addressed.

The Legal Fund has spent almost six million dollars on Legal Fees assisting members since first established in 1997. The first case was an appeal of an assault in "E" Division where two members in Nanaimo were convicted on false evidence of assault during the arrest of a drunk driver. On conviction they were sentenced to jail and had no funds for an appeal. They were members of the Legal Fund. They asked for and received assistance. Legal Fund cost \$32,000. We won, and these members kept their jobs and continued to serve.

I understand that some of the incorrect information being circulated relates to the

dollar amount that the Legal Fund provides for a Legal Opinion and the dollar limit it will spend to assist a member. The following question was asked by another member. "If the Legal Fund does fund you it will only be to the tune of \$3,000 and this money will have to be paid back to the Legal Fund if you win your case. Is that true?"

Our answer is, "The normal process is that a Legal Opinion is sought before the commencement of any action. The Application is submitted to the Legal Fund Division Board. Each Division Board has authority to spend up to \$3,000. plus GST/HST for a Legal Opinion. There are occasions however, when due to the complexity of the matter, additional funding is needed. In such case, the Executive of the Legal Fund would be asked to approve the extra amount. There is no cap on the amount of funding an applicant would be entitled to through the Legal Fund.

There is no variance between Criminal and Civil proceedings. Monies aren't required to be paid back if the member wins. If the member loses, there is NO RISK to the member, because the Legal Fund accepts the liability."

Currently we have open files in B, C, D, E, F, H, HQ, J, K, L, O, T and V Divisions.

As you can see the Mounted Police Members' Legal Fund has had tremendous successes since its inception in 1997/98 in representing all members on anything that affects their welfare and dignity. I've yet to receive correspondence from any member declining a benefit that has been obtained by the Legal Fund's successes - your successes. As one member recently wrote to me, "Tell me where a member can get that type of insurance protection for \$4.00 a pay. It's the price of a coffee".

If you have any concerns or questions, please don't hesitate to contact me via agclarke@istar.ca; GroupWise or at 902-366-2104 until 26 July 2012 and afterward at my home number 613-834-1681.

Wishing you and your families a safe summer. Be careful out there!

Gordon Clarke
Secretary Treasurer Mounted Police Members'
Legal Fund

What's Happening Now?

To say that we have been busy would be an understatement. We have been extremely busy taking on issues for our membership. As of this writing we have 79 open files. Not many you may think when we have a Legal Fund membership of over 17,000 but calls for assistance have been growing each year resulting in an expenditure of over \$5,600,000. in legal fees since inception in 1997. Legal

exercises are not cheap. A simple Legal Opinion usually costs between \$2,500. and \$3,000. plus taxes. To take a matter to Federal Court increases that amount by \$5,000 - \$15,000 just to start and the costs escalate depending on the volume of work the lawyers have to carry out to bring the matter to a conclusion. (e.g. See article on *Defamation* in this Newsletter).

INTERESTING FACT!

At the writing of this Newsletter there were 17,025 Civilian and Regular members of the Mounted Police Members' Legal Fund. Last year at this time there were 17,008 and the year before 17,005. Recruiting is down and members going to pension are up but the Legal Fund keeps on growing with considerable increases in A, C, D, E, K and N Divisions.

Expenditure Restraint Act – Federal Court deems Unconstitutional – Significant Decision for Royal Canadian Mounted Police Members

Portions of the following were contained in our Fall 2011 Newsletter and have been reprinted here to remind readers of what has occurred in the past. The latest update is contained in the final paragraph.

In December 2008, Treasury Board decided to roll back wage increases across the Federal Civil Service with Regular and Civilian Members subject to the same roll back.

Parliament subsequently enacted the Expenditure Restraint Act codifying the wage roll back.

An application for judicial review was made by SRRP members through the Mounted Police Members' Legal Fund because TB did not meet/consult with or have any discussions with the Pay Council in relation to the roll backs of already agreed to wage increases.

On June 21, 2011, The Federal Court issued its decision and agreed that the Expenditure Restraint Act (and the 2008 Treasury Board decision) were unconstitutional.

On July 4, 2011 Department of Justice (DOJ) applied to the Federal Court making a motion for reconsideration of the Order of the Honourable Madam Justice Heneghan of June 21, 2011.

On July 19, 2011, Madam Justice Heneghan ruled that there were no grounds in the Application warranting reconsideration.

The Crown however has appealed the decision and has made a motion as follows: 1. "An Order staying, until such time as this Court renders final judgment on appeal, the Order of the Honourable Madam Justice Heneghan dated June 21, 2012 declaring the Treasury Board decision of December 11, 2008 to be contrary to section 2(D) of The Canadian Charter or rights and Freedoms and quashing it; 2. If the judgement of Justice Heneghan constitutes, in respect of sections 16, 35, 38, 43, 46 and 49 of the Expenditure Restraint Act, a finding of constitutional invalidity or a constitutional exemption, an Order staying of the effect of the judgment until such time as this Court renders final judgment on the appeal; and, 3. Such further and other relief as counsel may request and this Honourable Court may permit."

Our counsel is responding to the stated grounds of the DOJ.

IN SIMPLE LANGUAGE, WE WON...

In January 2012, a three judge panel of the Federal Court of Appeal heard the evidence in the Attorney General of Canada's appeal of an earlier Federal Court decision in relation

to the Wage Roll Back. On July 20th, we were advised by our legal counsel of an Order Made by the Appeal Court. "Justice Layden-Stevenson died on June 27, 2012 before the Court had completed its deliberations on this appeal. In the particular circumstances of this case, the Court has decided not to exercise its discretion pursuant to subsection 45(3) of the Federal Courts Act to issue a judgment signed by the two remaining members of the panel that heard the appeal. Accordingly, and while recognizing the consequences for the parties, the Court orders that the appeal will be re-argued. The Judicial Administrator will contact counsel in the next few days to discuss possible dates for the hearing. If the parties think it appropriate, they may file supplementary memoranda of fact and law and supplementary books of authorities. The Appellant may serve and file a supplementary memorandum no later than 30 days before the date of the hearing, and the Respondents may serve and file theirs no later than 20 days before the hearing. Supplementary books of authorities may be filed no later than 15 days before the date of the hearing."

New hearing date has been set for November 28, 2012. Our lawyer will be filing material and arguing on your behalf.

Could This Happen To You?

Over the years we have financed dozens of issues for members of the Legal Fund and received dozens of legal opinions from lawyers and law firms from one coast to the other concerning those issues. From January 1, 2012 to July 20, 2012 we had asked for 30 legal opinions on issues raised by our members and had received 24. Following are only a small sample of the issues on which legal opinions were recently received.

(The results of these Legal Opinions contain solicitor/client privileged information and is the property of the Mounted Police Members' Legal Fund. Any disclosure or other use of the information contained therein may be unlawful and is strictly prohibited.)

1. DEFAMATION

Since many members experience Defamation during the course of their duties we felt it might be timely to do a brief summary of what constitutes Defamation and the consequences of the offence.

Defamatory Libel

A defamatory libel is matter published, without lawful justification or excuse, that is likely to injure the reputation of any person by exposing them to hatred, contempt or ridicule, or that is designed to insult the person of or concerning whom it is published.

Mode of Expression

A defamatory libel may be expressed directly or by insinuation or irony (a) in words legibly marked on any substance; or (b) by any object signifying a defamatory libel otherwise than by words.

Publishing

A person published libel when he (a) exhibits it in public; (b) causes it to be read or seen; or (c) shows or delivers it, or causes it to be shown or delivered, with intent that it should be read or seen by the person whom it defames or by any other person.

Punishment of libel known to be false

Every one who publishes a defamatory libel that he knows is false is guilty of an indictable offence and liable to

imprisonment for a term not exceeding five years.

Punishment for defamatory libel

Every one who publishes a defamatory libel is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years.

In response to a member's claim of Defamation we recently asked for a Legal Opinion.

The lawyer's reply in brief: "You have asked us for an opinion regarding a potential claim of defamation to response to the website www.oxxo.com publishing comments about Cst. Xxxxxx..

In our opinion, Cst. Xxxxxx has a claim in defamation and would likely be successful in obtaining a permanent injunction restraining www.oxxo.com from making further defamatory statements and an award of damages in the range of \$20,000 - \$25,000 in the BC Supreme Court. We recommend that Cst. Xxxxxx proceed quickly to assert his rights by filing a Notice of Civil Claim.

Now we come to the question of cost. Legal actions are not cheap.

"Most defamation cases settle before trial. Unfortunately, given what we know about www.oxxo.com's behaviour to date, we do not expect that he would settle any claim.

We anticipate it would cost approximately \$18,000 - \$20,000 to proceed with a demand letter, Notice of Civil Claim, ex parte interim injunction application and preparing for trial up to and including discoveries. If, based on a review of the Response to Civil Claim, the case was suitable for summary judgment, we anticipate a one-day summary application would cost an additional \$10,000. If the case were to proceed to trial, we would suggest a jury trial in the circumstances. This would likely take approximately three days and an additional \$35,000."

Knowing then that this matter could cost upwards of \$65,000. With a potential return if the case was won of \$20,000. and if it was lost a possible expenditure of \$65,000. With the possibility of being assessed costs as well, should the Legal Fund support the member?

The matter clearly falls within the aims and objects of the Legal Fund which reads in part, "Actions taken collectively or individually with respect to matters which affect the dignity or welfare of a member or members of the Legal Fund which are not funded under benefit programs, including any Treasury Board policies and directives or any RCMP policies and directives." The Directors unanimously supported the request for assistance.

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Could this happen to you?

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2. GRIEVANCES

Some of you may have submitted grievances with respect to particular issues. You may or may not have been successful. We are contacted often in this respect. As a result, on members' behalf we asked a law firm a question in this regard.

QUESTION: What can be done to enforce a Level 1 grievance decision in which you were successful?

Answer was as follows:

ANSWER: You can enforce the Level 1 grievance decision in Federal court by way of mandamus. Mandamus is a legal remedy where a court orders that a person do some specific thing. In order to obtain an order of mandamus, the Federal Court has adopted the following general framework:

- There must be a public legal duty to act.
- The duty must be owed to the applicant (instead of to the public at large).
- There is a clear right to performance of that duty, in particular:
 - a. The applicant has satisfied all conditions precedent giving rise to the duty;
 - b. There was:
 - i. A prior demand for performance of the duty;
 - ii. A reasonable time to comply with the demand unless refused outright; and
 - iii. A subsequent refusal which can be either expressed or implied e.g. unreasonable delay.
- Where the duty sought to be enforced is discretionary there are special rules.
- No other adequate remedy is available to the applicant.
- The order sought will be of some practical value or effect.
- The Court in the exercise of its discretion finds no equitable bar to the relief sought.
- On a "balance of convenience" an order

in the nature of mandamus should (or should not) issue.

3. OPINION ON TRANSFER ALLOWANCE PRE-2008. A REQUEST BY A MEMBER WHO ACTED TOO LATE

"You have asked me for an opinion concerning Transfer Allowances for RCMP members prior to 2008. More specifically, you have asked me whether RCMP members who were relocated but chose not to move residences were entitled to Transfer Allowances before 2008 and, if so, what steps can be taken to claim those amounts on behalf of affected members.

I have concluded there is a good argument that RCMP members are legally entitled to a Transfer Allowance whenever they "relocate" positions but do not physically move their home (as has been paid since 2008). RCMP members were entitled to this Transfer Allowance back to at least April 1, 2005, and perhaps earlier. It will be difficult to obtain a measure of recourse for RCMP members wrongly deprived of the Transfer Allowance prior to 2008. Any fresh complaint or proceeding based on pre-2008 events is likely out of time."

4. ON-DUTY INJURY AND RESULTANT ILLNESS RENDERS MEMBER UNABLE TO REPORT FOR DUTY

In our 2008 Newsletter we discussed the situation of a Cst. Jones (Name changed to protect the member's identity) who after an on-duty injury developed an illness unrelated to the accident that rendered her unfit for work. She unsuccessfully attempted a gradual return to work resulting in her illness growing worse. After being ordered back to work by her line officer she filed a refusal to work under Part II of the Canadian Labour Code. The Canada Labour Code Arbitrator decided not to render judgment on the perceived

danger on this work refusal case. It was decided that since this was the first time that the Public Service Relations Board was to review a complaint of reprisals filed by a regular RCMP member concerning a refusal to work, we might have been able to set a valuable precedent by taking the matter to the Federal Court of Appeal.

The case was not upheld by the Federal Court who also assessed costs of \$3,952.20 in addition to the \$65,468.36 it cost to complete the matter.

5. PROPOSED ACTION AGAINST THE ROYAL CANADIAN MOUNTED POLICE

"We have been asked to provide an opinion to the Mounted Police Members' Legal Fund regarding the probability of success of a proposed legal action against the Royal Canadian Mounted Police (RCMP) for damages suffered by RCMP Cst. X00X as a result of an ill-conceived police investigation and the consequent laying of a charge of criminal harassment against him."

We have concluded that civil proceedings against the RCMP are warranted."

Matter is with the Division Board for consideration.

6. VACATION TRAVEL FROM AN ISOLATED POST

"You have asked me to prepare an opinion on the merits of an application for Judicial Review to challenge a grievance decision concerning vacation travel for a member in an isolated post.

I have concluded that: Any application for Judicial Review to Federal Court is out of time, and the Federal Court is unlikely to grant an extension of time. Even if the application was not out of time, the application is unlikely to succeed."

RBC Group Banking Plan for Employees of the Royal Canadian Mounted Police

RBC Royal Bank in cooperation with the Mounted Police Members' Legal Fund has designed a Group Banking plan to help you meet your financial needs with access to a full range of banking and financial services. Our knowledgeable staff will ensure that employees associated with the RCMP receive the advice you need, whether it's managing a budget, establishing a mortgage or saving for the trip of a lifetime.

As an employee of the RCMP you will enjoy a wealth of benefits including:

- A choice of banking packages with special offers on premium packages
- Personal financial advice — one on one or through group seminars
- A single point of contact for all your financial needs
- More savings with lower banking fees and preferred interest rates

To access a special Group Banking site and to discover the benefits RBC has to offer to you, please check: www.rbcroyalbank.com/group-banking/052378814/index.html

To take advantage of the group banking offer or if you have any questions, ***please refer to the contact information below.***

Royal Canadian Mounted Police – Contact Information

General contact information is provided for your convenience. RBC has an extensive branch, mobile and online network. Please choose the most convenient method for your needs. When contacting a local branch, please ask for:

- An Account Manager, for your Everyday Banking Needs, or
- A Mortgage Specialist to discuss home financing, or
- An Investment Retirement Planner for investment advice

The local branch manager can also be a resource to direct you to the most appropriate officer.

For more branch locations and hours of operation, please call: 1-800-769-2511

Other resources include:

- Home Financing Inquiries, Mortgage Specialist 1-877-769-2570
- Investment Planning, <http://www.rbcfinancialplanning.com/> or 1-800-463-3863
- RBC Credit Solutions, 1-800-769-2511, or Your Local Branch
- Credit Card Solutions, www.rbcroyalbank.com/credit-cards
- Branch & ATM Locator, <http://maps.rbc.com/index.en.asp>
- Online Banking, www.rbcroyalbank.com/online/index.html

INTERESTING FACT!

We continue to get requests for assistance from members who are not members of the Legal Fund or who join and ask that the Legal Fund assist in an action that happened before they became a member of the Legal Fund. We can sympathize however cannot assist. The procedures we must follow are quite clear:

1. Must have been a member of the MPMLF at the time the incident occurred for which you are seeking assistance.
2. Must have exhausted all of the grievance and other procedures available for assistance within the Royal Canadian Mounted Police (RCMP) or Government Services

The following case of defamation was brought to our attention in October 2006. It was finally brought to a conclusion in March 2012.

Our member was a married man with a young daughter in school. He worked extensively with the youth in the community. He had worked hard to gain acceptance in the community and his conduct was beyond reproach. The defendant was a resident of the same community. In early 2004 the defendant submitted a lengthy complaint against many members of the local RCMP Detachment, including the plaintiff, to the Commission for Public Complaints. He also contacted another local citizen, upon knowing that the Commission for Public Complaints would

investigate his complaint, and told him he may be questioned respecting his allegation of the plaintiff's inappropriate relationships with young women in the district. Not only did he allege that the plaintiff spent most of his shifts sitting in the coffee shop drinking coffee with the young women, he in fact indicated that he was quite sure the plaintiff was having an inappropriate sexual relationship.

The matter was heard before a Justice of the Queen's Bench in the Province where the incident occurred. The court ruled, "*This court*

as well as the court in Jutasi v Duhaime, supra, has a zero tolerance for impairing of the morale of a hard working RCMP officer and the tainting of his reputation earned through devotion to his family and his profession. The plaintiff is a responsible member of the RCMP and an active and responsible member of the community in which he lives."

General damages of \$15,000 with costs of \$3,000. were awarded. It was only this year when the defendant completed his final payment and the issue could be closed.

Who is Making the Decisions?

In 2010 Member XXX was on duty and submitted an expense claim for Private Accommodation Allowance (PAA) [private non-commercial accommodation] for \$1,350.00. The expense claim was denied. Member submitted a grievance. Same was adjudicated in June 2011 and the adjudication stated, "The Respondent shall process the two expense claims at issue, such that the Griever receives payment of \$1,350.00".

In October 2011 the C/Supt. for the Region put a stop to the payment as ordered by the Level I adjudicator. Member turned to the Legal Fund

for assistance, since the grievance system was brought into disrepute when the adjudication was ignored. Legal Fund counsel advised that the proper process for such as this, where Senior Management are refusing to carry out the lawful adjudication, is to seek a Writ of Mandamus in Federal Court.

Before commencing that action however, letters were sent to the Chief Human Resources Officer and the Commissioner in May 2012 insisting payment be made to the member as ordered by the Level I Adjudicator by a certain

date in June 2012. Refusal to pay by that date would result in an action in Federal Court.

A response was received from the Department of Justice counsel in June advising that Member XXX would be receiving the \$1,350.00 by direct deposit shortly. Member XXX did receive payment.

Members should also review files G-496 and G-497 of the RCMP External Review Committee concerning the PAA issue and the decisions of the Commissioner.

Letters From Members

From "J" Division

"I would like to thank the Legal Fund for assisting Cst. Lach and myself with our efforts to discontinue several individual's public defamation campaign against us. When I contacted the Legal Fund Representatives from J Division, Sgt. Gilles Blinn and Sgt. Marc Bernard, with my concerns, it was evident my situation would be taken seriously.

Action commenced right away, with completing a legal Fund Application (Schedule B) meeting with legal counsel, and ultimately having those individuals in question served with legal documents for the removal of the video from a local website, as well as from YouTube. With a warning of the possibility of civil action if further defamation persists. Within days the videos were removed from both sites.

Thank you Legal Fund for giving us Members the option to explore our legal right to defend our most prized attribute in law enforcement, ones CHARACTER."

*Cst. Todd Pugh
District 2 RCMP*

From "K" Division

*"Dear Legal Fund Members
Re: Legal assistance 12 years after the fact*

I asked the Legal Fund if I could provide a brief submission in regards to assistance provided to me over the course of the past two years. While the issue at hand focused on an abuse of authority, what I wish to speak about is the assistance I was provided by the Legal Fund. Entering a Federal Appeal two years ago on what I am sure is the longest running grievance in the history of the Force and after having pretty much exhausting all my available funds, I inquired as to whether or not I might qualify for assistance from the Fund. After confirming that I was a due paying member at the time of my retirement (ten years prior) the LF agreed to provide me funding based on my previous membership and the significance of the issues at hand. Thanks to the Fund I was able to further my grievance through the system over the past two years until such time that an agreement was reached between the Force and me. I have to be honest in stating that I could not have gone through with any of this without the assistance of the Fund and in this regard I am not talking about just the financial assistance I was provided. The emotional stress of having to deal with this matter for 12+ years was getting to be just a little too much to bear on my own. In this regard I just thought it was important for the members to know that even in retirement the LF was there to help.

Retired Sgt."- Name withheld

From "O" Division

"I just read Gordon's e-mail explaining the legal fund. I knew some of this but it has clearly explained everything. Thanks Gordon. And thanks to all of you for working your asses off for the benefit of all members. This member appreciates everything you do !! I have contributed to the fund for a long time and hope that I never have to make use of it personally. But knowing that it is there for the protection of our members/issues is comforting."

From "J" Division

*"Hello Gordon,
I know your busy, but thought I thank you for taking the time to send us your letter.*

Very informative and excellent way to do away with stories and innuendo.

(continued on page 10)



THE MOUNTED POLICE MEMBERS' LEGAL FUND
FONDS DE RECOURS JURIDIQUE DES MEMBRES DE LA GENDARMERIE

APPLICATION FOR MEMBERSHIP TO THE MOUNTED POLICE MEMBERS' LEGAL FUND

THE LEGAL FUND

The Mounted Police Members' Legal Fund (Legal Fund) is a not-for-profit private corporation set up in 1997 by the majority of Staff Relations Representatives to generally fund actions to bring a resolution of issues between Regular and Civilian members of the RCMP who belong to the Legal Fund and the Government of Canada and to fund actions taken collectively or individually with respect to matters which affect the dignity or welfare of a member or members of the Legal Fund which are not funded under benefit programs available within the RCMP or the Government of Canada. We are concerned primarily with members' pay, benefits and rights.

MEMBER Complete and mail to your Staff Relations Representative (SRR).

Name _____
(Print)

(Detachment, section, unit, squad, etc.)

Division _____ Regimental# _____

Collator Code _____ HRMIS# _____

I hereby authorize a payroll deduction from my pay and authorize transfer of those funds to the Mounted Police Members' Legal Fund.

Signature _____

Date _____

Letters From Members (cont'd.)

That member is right, Starbuck's coffee costs more than \$4.00 for their specialty coffee, so this legal fund is a gift to all members.

We should all be part of the fund in my opinion. Thanks again and keep up the good work."

From "H" Division

"Great email, I was very impressed when reading it and I am proud to be a member. Thank you for your continued efforts on our behalf!

Thank you for a very well-written, concise retort.

People who talk out the sides of their mouth, gossip and provide half-truths can be remarkably detrimental.

I've been paying in for as long as I can remember and continue to encourage others to do so. I sleep a little better each night knowing that someone has my back outside of the RCMP (besides family and friends - I'm lucky that way) and for that I am thankful. Thank you for your efforts and please keep up the good work."

"Gordon. Thanks for all you do for the Legal Fund. It is good to know that it is there."

From "E" Division

"I have heard about some members pulling out of the Fund. I am not going to weigh you down with some long-winded message regarding the number of the reasons this seems like panic-fuelled short-sightedness, I just want to know if there is a way I can double or triple my contribution. I know it's just a drop in the bucket however right now it's the best way I know to express my concern regarding the mob mentality I'm seeing from members getting red-faced over something they have not taken the time to educate themselves on.

I think crippling the one representation we do have may be a principle-based move from the perspective of those who would have us form a union but a very stupid move during these times of unprecedented change and cuts in the force... a very stupid move. Its like deciding right before battle that we don't like our army. So we decide to cripple it and see if we can piece something better together in a week. But lets hope our half-hearted attempt works out and we don't just end up with a crappy, ill-equipped army that signed up for the fight yesterday. You can fight, or you can reorganize but you can't do both, at least not at the same time. So in all honesty is there a way I can double or triple my contribution to make up for one or two members who have abandoned the fund?

Take care, and don't let the ignorance of the few taint the strength of the rest."