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Canada Canada

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File No. 301994

October 8, 1991

Lt.Col. K. Watkin
Director of Law/Human Rights
and Information
Office of the Judge Advocate General
National Defence Headquarters
MG George R. Pearkes Building
Ottawa, Ontario
K1A 0K2

Dear Sir:

Re: Colin Dwyer/Michelle Douglas

I understand that if instructions are received to settle the above-noted cases, the Canadian Forces proposes to immediately issue a Canforgen to all troops and a press release. Both would announce that the Canadian Forces will be discontinuing its policy with respect to the enrolment and retention of individuals who have engaged in homosexual acts.

While I appreciate that the Chief of the Defence Staff wishes to make the announcement to the troops himself, I am concerned that the manner of making the announcements and the issuing of a press release will prejudice negotiations between the Department of Justice and counsel for the plaintiffs in the 5 outstanding actions.

For instance, the offer which has been made on behalf of Mr. Morash may well be withdrawn by his counsel once he realizes that the Canadian Forces does not plan to continue with the policy in any event. Similarly, bargaining advantage with counsel for the other plaintiffs will be sacrificed.

While I realize that Colonel McDonald reviewed a proposed Canforgen with Ms. McAllister, neither she nor I appreciated the plans respecting the timing of the release regarding the Canforgen. We have never met with the Canadian Forces to discuss the nature of this Department's

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mandate regarding settlement, and I had always expected that the first order of business after the acceptance of our recommendation to settle would be a meeting to discuss what the Canadian Forces was willing and able to do by way of settlement with each of the Plaintiffs. Such a meeting would result in the preparation of offers of settlement to each and, hopefully, the conclusion of mutually acceptable terms of settlement. At that stage the Canadian Forces could make an announcement.

Under the circumstances, I would request that the Canadian Forces hold off on the making of any announcement and that we meet as soon as possible in order to discuss how to go about communication with counsel for the purpose of settlement and what the Canadian Forces is willing and able to do by way of settlement.

Yours very truly



Barbara A. McIsaac
Senior Counsel
Civil Litigation Section.

BMc:rn

c.c. D. McAllister

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