

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

**MARCEL MORISSETTE**

Grievor

and

**TREASURY BOARD  
(Agriculture and Agri-Food Canada)**

Employer

***Before:*** Marguerite-Marie Galipeau, Deputy Chairperson

***For the Grievor:*** Lucie Corney, Consultant, Service de consultation et  
d'intervention en relations de travail

***For the Employer:*** Raymond Piché, Counsel

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Heard at Sherbrooke, Quebec,  
on July 8, 9, 10 and 11 and December 2, 3, 4 and 5, 1997,  
and on May 26, 27 and 28 and October 20, 1998.

## DECISION

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This decision is further to the adjudication of a grievance presented by Marcel Morissette (GL-MAN-10), an employee of the Department of Agriculture and Agri-Food Canada. At the time of the events, Marcel Morissette was manager of the Lennoxville swine complex.

The grievance concerns Marcel Morissette's suspension without pay (Exhibit E-1) on December 20, 1995 and his termination of employment (Exhibit E-2) on February 5, 1996.

The reason for the termination is described as follows in the letter of termination (Exhibit E-2):

[Translation]

*On October 19, 1995 a complaint of harassment was filed against you by one of your subordinates to the Director of the Lennoxville Dairy Cattle and Swine Research and Development Centre.*

*A thorough investigation was conducted. A detailed report was submitted to the Director on December 11, 1995. The report indicated that the allegations against you were valid.*

*Consequently, in accordance with the powers conferred on me by the Deputy Minister and section 11(2) (F) of the Financial Administration Act, I am advising you of the termination of your employment in the Public Service as of December 21, 1995.*

*Under the provisions of the Public Service Staff Relations Act, you have the right to file a grievance against this termination within 25 days of receipt of this letter.*

*Yours sincerely,*

To summarize, on October 20, 1995, one of Marcel Morissette's employees filed a complaint (Exhibit E-4) in which she alleged that Marcel Morissette had sexually harassed her. At the request of counsel for the employer and without objection from Marcel Morissette's representative, the name of the complainant is not used. At the request of counsel for the employer, a letter has been substituted for her name. Consequently, the complainant is referred to under the pseudonym of "Ms. X".

Ms. X's complaint was investigated and an investigation report (Exhibit E-3) was submitted in which the authors concluded that Ms. X's complaint was valid "with respect to sexual harassment and abuse of power in the workplace". Since the investigation found the complaint to be valid, the employer terminated Marcel Morissette's employment.

In his grievance, Marcel Morissette requested that the disciplinary measures taken be rescinded and that he be reinstated in his position. (At the end of the hearing, he withdraws his request for reinstatement.)

Ms. X's complaint (Exhibit E-4), *in extenso*, is as follows:

[Translation]

*Dear Director:*

*The purpose of this letter is to formalize the complaint of sexual harassment made verbally on October 8, 1995 against Marcel Morissette, the foreman of the swine section of the federal research station in Lennoxville, Quebec.*

*I am claiming that the foreman:*

*- acts in a paternalistic manner toward his female employees so that he can embrace them, seduce them and override their conscience;*

*definition of seduce: from the Latin seducere "to lead astray"*

*1. in speaking of a man, to persuade a female to surrender her chastity or to be unfaithful.*

*2. to gain the admiration, esteem, trust of (someone).*

*- harassed me from the time of our first meeting in 1985 (completely unnecessary kiss on the cheek given that we were strangers) until my leave in October 95 after 5 years of working at the farm;*

*- harassed me by words and actions, to such a degree that he made me behave like a victim and to the extent that I became resigned to committing adultery with him;*

- caused, fed and/or precipitated my repeated mental depressions to the point that I wanted to take my life in order to escape my problems;
- interfered in our private lives, including our sexual lives, on the premise of giving us so-called good advice;
- constantly told us that, through his authority and goodwill, he had obtained interesting work for us, making us feel that we should be obliged to him for this and that we should be nice if we wanted the same thing to happen with our next contract;
- made his female employees feel, through his actions and words, that we were his harem on the farm;
- told us repeatedly that people who obeyed the morality of the Bible regarding sexual relations were wrong and were foolishly depriving themselves of the pleasures of free sex; that, instead, we should listen to our beautiful natural instincts and sleep with anyone we wanted to according to our impulses and, he did this in order to persuade me to do the same;
- directed his staff to other parts of the farm intentionally so that he could be alone with me or with another female worker to harass her sexually;
- frequently told obscene, shocking and degrading jokes about women (and men); made references to certain parts of the bodies of his employees (men and women) and did so in public and in private; made gestures of a sexual nature;
- is an exhibitionist in the real and figurative sense.

definition: 2. Fig enjoyment in expressing feelings or revealing personal and intimate information that decency would normally prohibit.

- paraded from his office to the shower past the kitchen/lounge wearing only Tanga briefs (very very skimpy), and even discussed the day's work with staff while in this state of nudity and exhibitionist display;
- instituted mixed washrooms/showers and ridiculed people who felt there should be separate male and female facilities by saying that we had to free ourselves of these old prudish customs;
- said to me (when seeing animals copulating) that women are like female animals; when they are in "heat" (oestrus) they

*agree to couple with the dominant male and that the latter's role is to keep insisting until the female gives in to him. This took place while making us feel that women had no choice but to fall into his arms sooner or later, that it was only a matter of time and that this was the only way to escape from his constant insistence;*

*- publicly and repeatedly vaunted his extremely high libido (by referring to one of our boars that was particularly adept at detecting sows in heat), and also mentioning the obvious fertility (after 8 children) of his sperm after checking it himself in the laboratory under a microscope;*

*- instigates physical contact with or brushing against female employees by narrowing the available space when they passed close to him (our work space is crowded);*

*- initiates unnecessary physical contact by displaying exaggerated and inappropriate camaraderie, such as kissing after an insignificant conversation, placing his hand on a shoulder or a knee under the table, judo holds with close contact of a suggestive nature; holds female employees against him so that he can feel our breasts, going so far as to remove our hands from in front of our bodies so that there is no obstacle between our breasts and his chest, as well as to press his penis against our pubic area, and doing all of this while feigning to comfort us when we are sad; gives us massages or rubs our necks and shoulders when we complain about pain (without asking for such intervention!), places his legs in front of and on either side of our chairs when talking thereby preventing us from getting up and leaving this embarrassing situation because his genitals are at eye level and very close to our noses!;*

*- caressing my erogenous zones while whispering erotic words in my ear, and while imagining out loud what my genitalia would look like, and while preventing me from leaving; asking me to undress so that he could look at me;*

*- THIS LONGSTANDING SITUATION, COMBINED WITH ITS UNFORTUNATE IMMORAL CONCLUSION, BROUGHT MY MARRIAGE TO THE BRINK OF RUIN WERE IT NOT FOR THE EXTRAORDINARY UNDERSTANDING AND DEEP LOVE OF MY HUSBAND, WHO EXPERIENCED THE CONFUSION, PAIN, DISTRESS, SHAME AND DISHONOUR OF ADULTERY ALONG WITH ME.*

*For all these reasons, I am filing this official complaint against the foreman of the swine facility.*

Expectations:

1. *To be able to return to my work with the certainty that I will no longer have to see the foreman and will no longer have to put up with being harassed;*
2. *To be able to return to my work without having to fear reprisals from his son Dominique who works with us in the section;*
3. *To no longer experience sexual or religious harassment from all of the employees, and particularly from Dominique, his son.*

Suggestions:

*I would like the designated investigator to speak with male and female employees in other sections of the farm, especially former employees of the swine section.*

*I would also like former employees of the swine section, who no longer work for the Lennoxville research station, to be interviewed and especially the women, beginning with the ones who were here most recently.*

*\*This is what no one has dared to say, including myself, for fear of reprisal by the foreman and by his son, Dominique, and for fear of disrupting the research projects of the researchers and the normal activities of the farm through Marcel Morissette's absence.*

*I hope that I will not regret this action, which is motivated by despair and the realization of the injustice and disturbing atmosphere that exists in the swine facility. We feel controlled and watched, held to silence by the Morissette clan, and harassed.*

*I hope that concrete action will be taken.*

Employer's evidence

Below is a summary of the employer's evidence. Witnesses were excluded.

Testimony of Ms. X

Here is a summary of Ms. X's testimony.

Ms. X was born in 1961. In 1981, she received a diploma in farm management. For several years, she worked at a tree nursery and on a project linking technology and farm labour.

She was married in 1983. In 1985, she obtained casual employment as a field crop labourer (GL-MAN-05) with the Department of Agriculture at the Lennoxville research station.

Before getting the job, she worked for seven weeks in the cattle section of the Lennoxville research station. It was during this brief time that she met the foreman of the swine facility, Marcel Morissette. At their first meeting, Marcel Morissette kissed Ms. X on the forehead as he left her. She was shocked because he was a stranger, she explained, and she decided that he was an "harasser" (her word).

Ms. X, who was 23 years old at the time, encountered Marcel Morissette from time to time when he came to the sheepfold. On one occasion when they were talking, he trapped her between him and the wall. To escape, she had to duck under his arm. On another occasion, Marcel Morissette offered her the chance of a two-year job. He told her that she would not have to pass a test. The working conditions were good but Ms. X turned down the offer because Marcel Morissette had a reputation "of liking women and of being an harasser". When she told him she would not be taking the job he was offering, he walked up very close to her, "two inches from my nose", and pressed her between him and the wall.

After the seven-week job in 1985 at the Lennoxville research station, Ms. X worked in the following years for periods of four to six months each year at a tree nursery in East Angus. Essentially, it was summer employment.

Then in 1990, Ms. X began taking steps to return to the federal government at the Central Experimental Farm. She received a call from Marcel Morissette telling her of a competition for a labourer's position in the swine section. It was seasonal work for four to six months each year.

At this point in her life, Ms. X had been married since 1983 and had two young children. Her husband was pressuring her to help out financially. Working conditions were difficult in the private sector. Consequently, she decided, despite her reluctance, to go where the best conditions were and she accepted the job offer from Marcel Morissette. During the hiring interview, Marcel Morissette behaved properly.

When she started work in the swine section in 1990, there were three female employees: Ms. X (GL-MAN-05), who was a casual employee, and Marielle Vanier and Irène Bergeron (GL-MAN-06), who held permanent positions. There were two male employees: Marcel Morissette's son, Dominique Morissette, and Dominique Bigras. Both of them were also in casual positions. At the end of the six weeks, Marcel Morissette was required, as foreman, to choose between the casual employees. Marcel Morissette always renewed the contract of his own son, Dominique.

The employees in the swine facility were a team. They worked closely with the technicians and researchers, who worked in another building.

The work of Marcel Morissette's employees involved doing what was needed to ensure the implementation of the researchers' research projects. They looked after the pigs, they took blood samples and they helped the technicians assigned to the researchers. In short, the researchers designed the research projects, the technicians looked after the laboratory work and the employees in the swine facility were the support team.

In the swine facility, it was Marcel Morissette who assigned the employees' tasks each day. It was he who decided on the building in which they would work each day. He also did the performance appraisals.

During the 1990s, an atmosphere of camaraderie reigned in the swine section. However, certain behaviour, incidents and situations bothered Ms. X's sensibilities. Here are a few examples.

The work in the swine facility is dirty work. Employees took showers at the end of the day. There were two showers available to them. The men and the



women used the same showers. It is a small space located next to a small kitchen and the office of the foreman, Marcel Morissette. Seven to nine people shared each shower. The researchers, technicians, students and swine facility team all used the showers.

Ms. X was uncomfortable with the fact that they were "mixed" showers (men and women). She spoke to the foreman, Marcel Morissette, about this. In response, he spoke of the importance of shedding "puritan" values and "freeing oneself from the restrictions imposed by the Church and society".

Ms. X has been a Jehovah's witness since 1984. Marcel Morissette joked about it. He regularly commented that Jehovah's witnesses could not listen to dirty jokes.

In the swine facility, it was common to tell "off-colour" and "more than off-colour" jokes. Some of the stories compared women to animals. Marcel Morissette and his son, Dominique, told a lot of jokes.

Ms. X was uncomfortable. Sometimes she left the room. Marcel Morissette said to her: "We know that you are a Jehovah's witness. Cover your ears or leave the room." Sometimes she left, but mostly she stayed and she did admit that she sometimes found the jokes funny. She explained, however, that at the same time, she did not want to find them funny. She suffered even more because, in her words, she felt like she was "the party pooper". She explained that her grandfather had told these types of jokes, but that after she became a Jehovah's witness, she did not want to hear them any more.

Essentially, the swine facility was a place where jokes were told all the time. Employees other than Marcel Morissette and his son told them, but it was mainly the ones told by Marcel Morissette and his son that made Ms. X uncomfortable. Father and son told stories every day during the coffee breaks. The most innocent conversations lead to sex-related jokes. Several of the jokes put down women. They alluded to animals in oestrus, to copulation. It was part of the employees' work to gather data on the oestrus of animals. Marcel Morissette and his son said things to Ms. X such as: "Are you going to get down on all fours?" or "You go into heat too but you can't tell because you are not an

animal. You do not have a penis so you can't tell when someone is in heat". Ms. X complained about these types of comments but she was ignored.

Ms. X found the jokes she heard humiliating. She could see that the other female employees were also uncomfortable and that they merely laughed nervously, but no one dared to complain. According to her, no one complained because with almost 40 years of seniority, Marcel Morissette "was a dinosaur; he could not be moved", while the employees were all in their early twenties.

Ms. X went on to say that, because of her family background (we will get to that later), she did not want to live in a climate of sexual harassment and sex-related jokes, two things she was very familiar with from her childhood.

The climate described by Ms. X above existed throughout the years that she worked under Marcel Morissette.

During the months preceding the filing of Ms. X's complaint of sexual harassment, Marcel Morissette arranged to work with her alone. For long periods of time, they were alone in various buildings far from the other employees. Ms. X was uncomfortable with this arrangement; she "wanted to be somewhere else", but, as she pointed out, she could not question his orders. Moreover, most of the time it was necessary for two people to work together to carry out the tasks.

One day, while Marcel Morissette and Ms. X were trying to identify the sows in heat, Marcel Morissette said to her: "The sow is there to say no; the male has to insist. Women are the same; sooner or later they will fall into our arms." Ms. X did not say anything when she heard this.

In addition to telling jokes, Marcel Morissette had wandering hands. He would put his hand on Ms. X's thigh in front of the employees gathered around the kitchen table. He did the same with other people, including Francine Phaneuf, for example. Ms. X saw him do it.

In the kitchen, when a female employee wanted to go by, he would deliberately push back his chair leaving practically no room to pass. "Our stomach or our chest would brush against his bald head. If you spoke to him,

he would move his chair in, but you had to tell him over and over again. He did not do it with the men."

Accomplished at judo (he has a black belt and teaches judo), Marcel Morissette liked to teach judo holds to his employees. In the beginning, Ms. X agreed to play along, to allow herself to be held, she explained. But she did not want to participate any more because Marcel Morissette would put his hands on her breasts. On the pretext of teaching a judo hold, he allowed himself "close physical contact". He would take positions "like when one is making love".

In addition to the judo instruction, he took other liberties with the female employees. If a female employee complained of a stiff neck, Marcel Morissette would rub it. The first time Marcel Morissette rubbed her neck, Ms. X allowed him to do it. After that, she refused his massages. Marcel Morissette recommended a certain physiotherapist to her whom she eventually consulted.

Around 1992, a new team arrived in the swine facility. They were Claude Mayrand, Francine Phaneuf and France Champagne, all three recent CEGEP graduates. These three new employees and Ms. X, along with Marcel Morissette and his son, made up the new team. At the start, the young women of the new team went along with Marcel Morissette's attempts to teach them judo, but eventually they no longer wanted to take part.

When it came time to take a shower, Marcel Morissette would undress in his office and head for the shower wearing briefs or "bikini cut" underwear. He would parade in front of the employees. He was the only one to do this. Ms. X and the other female employees were embarrassed. They found Marcel Morissette's attitude shocking. They spoke about it among themselves.

One morning, after undressing to put on his work clothes worn in the swine facility, Marcel Morissette gave the employees their orders while wearing only his briefs. He stood before them dressed this way for 10 minutes.

Ms. X told him that she and the other female employees did not appreciate his behaviour. He told her that they had been raised to be "too

prudish" and that she, Ms. X, reacted the way she did because she was a Jehovah's witness.

Ms. X pointed out that at the time of these events, she did not think she had many rights because she was a casual employee. She put up with Marcel Morissette's behaviour and each year, she could not wait for her contract to end so that she could stay home. At the same time, she was very aware of the precariousness of her job. Marcel Morissette had the first and last word on hiring casual employees. He called people that he was interested in to tell them the day on which the jobs for the next season would be posted. He was the one who selected the people he wanted from the list of candidates. He often said to his employees: "You have a job because of me" and "It is easy to get rid of casual employees." Ms. X was very much aware of Marcel Morissette's power. She knew that he did not hire "fat women" because he told her so. She knew that he had hired one of his judo students, someone named "Éric". This "Éric" told her that Marcel Morissette had given him the test questions and answers. He also said that some of the young women enrolled in Marcel Morissette's judo classes had left because they "were tired of being groped".

According to Ms. X, even the farm employees who did not work in the swine section knew of Marcel Morissette's reputation as an "harasser".

Ms. X spoke to Marcel Morissette about this. He smiled. He told Ms. X that he liked the fact that people thought of him as the " barnyard rooster".

Not only was Ms. X aware of Marcel Morissette's power over her job, but he also tried to isolate her.

He told Ms. X : "Your colleagues do not like you with your unpleasant moods, but I like you a lot." He added that it was thanks to him that she kept her job. Ms. X admitted that it was true that she was not always in a good mood, but that was because she suffered from depression. She added that she had stabilized her moods by taking medication.

Marcel Morissette made sure the employees were aware of his power over their jobs. Another example: Marcel Morissette told Dominique Bigras, in front

of Ms. X, "Whichever of you two is better will be hired in the end" or "You are a leader", implying to Dominique Bigras that he was not. In the end, Dominique Bigras became depressed and quit his job.

Despite the jokes, there was an oppressive atmosphere in the swine facility. On the one hand, the employees were young and hired on a casual basis. On the other hand, Marcel Morissette had 43 years of seniority and his expertise was well known. In terms of work, Ms. X admitted that he was a man with whom you could discuss work methods and who was open to suggestions. However, he was so controlling that the employees knew that if mistakes were made in the swine facility, no one had better talk about it. Outsiders (including the researchers) were not welcome. Marcel Morissette claimed the work of the technicians. They knew it and they did not come to the swine facility often. Because he had 43 years of seniority, that is, more than even the directors did, no one dared to complain about Marcel Morissette's controlling manner.

When Ms. X worked with Marcel Morissette, he told her about his sex life with his wife. He told that his wife was a prude, that he had a "strong libido", and that he was "a boar who was good at detecting". On another occasion, when he was collecting sperm from neutered hogs, Marcel Morissette commented, in front of the employees, that he had collected his own sperm to have it tested and that he was very fertile.

Ms. X was embarrassed. She did not want to hear such talk.

When she was working with Marcel Morissette (they were working together on detecting animals in heat), he constantly brought up sex-related topics. He also offered his opinion on the sex lives of other people.

When they were looking for signs of oestrus together, Ms. X had to ask him to give her space, to move over, so that she could get by. During the five years that they worked together, she was on her guard whenever she worked with him in a confined space.

When a woman took her time taking her shower, he would say to her: "Stop abusing your body." He said this to Ms. X, among others.

When Ms. X would sat down, Marcel Morissette would sit on the arms of her chair. Ms. X stated that: "His sex organ was in my face, I was trapped, I could not move because he had his legs over the arms of the chair." Another employee, Francine Phaneuf, had the same thing happen to her and she told Ms. X about it. Ms. X said that she did not tell Marcel Morissette that she did not appreciate this gesture, because she was too "embarrassed".

At one point, Marcel Morissette had an operation. When he came back to work, he told the employees about how, when he was in the hospital, "his penis was erect the whole day and the nurses lifted the covers to see the size of his penis".

He also brought articles that he found in newspapers into work for the employees to read on such topics as "How to make your penis bigger" and "How to grow more hair".

In 1993, Ms. X's mental health began to deteriorate. She had depressions that lasted about a month and which, over time, lasted longer. She had to take medication. In summer 1995, she was deeply depressed. The atmosphere created by Marcel Morissette's actions was wearing her down. She no longer wanted to work at the swine facility, but her husband discouraged her from quitting her work and reminded her that the pay was less elsewhere. Although officially she was a casual employee, in fact, she was working full-time.

She explained that what was bothering her was having to be constantly on her guard with Marcel Morissette. She was regularly alone with him because he was the one who decided with whom she worked. She stated that she even had to watch what she wore so that she did not attract Marcel Morissette's attention. He often commented on the fact that she was a Jehovah's witness, but what bothered her the most was the physical and sexual harassment, the fact that she had to be on her guard so that she "would not get cornered".

Her depressions where accompanied by thoughts of killing herself. The fact that she was working full-time meant that she did not have any break from Marcel Morissette's attentions.

Prior to May 1995, she confided in a female friend; she also called S.O.S. Suicide. One day when she was at her lowest point, she told Marcel Morissette that she was depressed and was thinking of committing suicide. He said to her: "Don't do that. The director will think that I am working my employees too hard and I will be blamed." He then took her in his arms. She tried to keep her arms crossed but he uncrossed her arms and held her very tightly against him. Ms. X stated that she felt that this was sexual harassment. "It was a rude awakening ", she said, "He was thinking only of himself." She told herself that she had to do something. She thought that suicide was a solution. In the end, she decided to fight her suicidal tendencies for two reasons: she did not want to abandon her children and she thought that "it was not Christian to commit suicide".

In May 1995, Ms. X consulted a doctor and began taking medication. She explained that her own mother had been depressed her whole life and had committed suicide in 1985 at the age of 44 years.

Until she began taking the medication in May 1995, she had not told her colleagues at work about her depression. However, once she began taking the medication, her moods stabilized and she then explained to her fellow workers that she was depressed and that she was using medication to overcome the problem.

According to Ms. X, one of the side effects of the medication she was taking to control her depression was to increase her sex drive. She spoke to her physician about this and he told her that this was one of the possible side effects in women, but that in men, the same medication could cause impotence. She stated that the medication "slowed her down" and that she felt "less on guard". After filing her sexual harassment complaint in October 1995, she switched medication on the advice of the legal psychiatrist, Francisco Pinero.

During summer 1995, Marcel Morissette was on vacation for five weeks. When he returned, his advances toward Ms. X became intensified.

While they were working together, Marcel Morissette would tell her about the sex lives of the young people to whom he taught judo. Ms. X would end up

joining in the conversation and commenting on the sex-related topics raised by Marcel Morissette. She realizes now that she should not have allowed herself to be drawn into these conversations.

When the day came for her to attend the agricultural fair as part of her duties, she waited to find out which day Marcel Morissette was going and she chose to go another day so that she would not find herself alone with him. She even told this to her fellow worker, Dominique, who was also Marcel Morissette's son. "Your father has wandering hands", she said to him. He replied "No. He would only put his hand on your shoulder". The next morning, Ms. X realized that Dominique had told his father about this conversation. Marcel Morissette was upset and said to her: "You are ruining my reputation". Ms. X commented that there were "two despots" working in the swine facility, "the father and the son," and that "the employees did not like it".

When he returned from holidays, Marcel Morissette intensified his advances in many ways.

At 5:00 p.m., Marcel Morissette would wait for her as she was coming out of the shower and would stand in her way, saying: "One day, she will fall into my lap just like animals do."

At the same time, he told her that no one understood her except him and that he was there to comfort her. Ms. X testified that, when he said these things, she understood and it was obvious that Marcel Morissette "was also there for sexual relations".

According to Ms. X, Marcel Morissette devoured the women employees with his eyes. Some of them had told Ms. X not to leave her undergarments in the small room next to the shower. Even Marcel Morissette had made a similar comment. Ms. X admitted that she did not make an effort to hide her undergarments because she felt it was unfair to be required to do so when the men's underwear was not hidden. Why, she asked, should the women hide their undergarments when the men were not required to? In her opinion, the problem was that the showers were mixed and should not have been.



One day, in August 1995, Marcel Morissette tried to prevent her from leaving the washroom and asked her to remove her underwear and show him her body. On another occasion, when coming out of the shower, he told her that her nipples were erect; another time, he told her that she had fat buttocks and fat thighs.

On another occasion, when they were working together and had just unloaded an animal trailer, Marcel Morissette asked Ms. X, while they were sitting in the trailer, if she wanted him to show her his genitals. She did not say anything because, she explained, she was too embarrassed. He then pulled down his pants and showed her that he had an erection. At the time, he was sitting in the driver's seat. He sat with his pants down for 10 to 15 minutes, talking and saying things like: "Good things come in small packages, but the best things come in big ones." Ms. X said nothing and then decided to agree with him and said "Yes, you are right."

After 15 minutes, Marcel Morissette pulled his pants back up. Ms. X decided not to walk back to the swine facility (at the time of the incident in the truck, they were about a mile from the facility), because she did not want people to ask her why she had walked back. She did not speak of this incident again to Marcel Morissette.

Some time later, when they were working alone in an isolated building, Marcel Morissette said to Ms. X: "I showed you my body, you could do the same." Ms. X decided, in spite of her embarrassment, she said, to pull down her underpants. Why? She explained it this way. "I was tired of being bugged, of always being on my guard. And Marcel Morissette said that no one liked me, but that he liked me." The incident lasted 10 to 15 minutes: Marcel Morissette looked at Ms. X, he touched her. He told her that she was beautiful, that she had nice buttocks, etc. Ms. X did not speak of this incident again to Marcel Morissette.

Things got more complicated after that.

One day, they left together for Beauce. They were going to pick up hogs and bring them back to the swine facility. It takes two people to do this job.

When they were on the road, Marcel Morissette stopped the trailer beside a pine forest. He asked Ms. X to have sexual relations with him. She refused at first but when he insisted, she gave in, telling herself that if she agreed this one time, maybe he "would leave her alone". They had sexual relations but "did not go all the way because Marcel Morissette did not have a condom".

During cross-examination, Ms. X stated that this event might have happened on July 6, 1995. She admitted that in response to Marcel Morissette's advances, it was she who asked Marcel Morissette if he had a condom. She admitted that she wanted to have sex at that moment.

The next day, Ms. X was upset. She told herself that she had committed adultery, that "it was not a Christian thing to do and that it was also a work relationship". She told Marcel Morissette this and he simply shrugged his shoulders and gave the impression that it was not important.

On another occasion, on a weekend, she was working in Building 68. Marcel Morissette was on leave. Despite this, he arrived at Building 68 without warning. Ms. X was not pleased. In her heart of hearts, she told herself, "I have to find the strength to keep fighting.". Marcel Morissette touched her. She ended up participating. When it was finished, she was ashamed. The next day, she told Marcel Morissette, "Could you stop . . . it is not right. Moreover, it is during working hours . . . I do not feel right about it". Marcel Morissette simply smiled.

Ms. X testified that she had intimate relations with Marcel Morissette a total of five times and that of these five times, they had full intercourse on only the last occasion. On that occasion, they used a condom, which Ms. X had purchased. "I had begun to like it", she explained. The sexual relations took place in the workplace.

The five occasions on which they had sexual relations took place between July 1995 and before Ms. X filed the complaint in October 1995. After each sexual encounter, Ms. X complained to Marcel Morissette and told him that she did not think that their behaviour was "right"; she told him: "Could you stop". During cross-examination, Ms. X stated that, when Marcel Morissette

came back from holidays, there was a month when things became more intense. She also admitted under cross-examination that twice during that month she was the one who took the initiative.

After the five sexual encounters, Ms. X was upset about where things had gone. She explained that, as a casual employee, she thought that she had no recourse but to submit her resignation.

The weekend after the last time she had intimate relations with Marcel Morissette, she decided to tell everything to her colleague, Claude Mayrand, including her intention to resign. He suggested that she file a complaint.

The next day she met with the Director of the facility, Dr. Jean-Marc Deschênes. Dr. Deschênes told her that she had to put her allegations in writing. On October 20, 1995, she submitted a written complaint (Exhibit E-4) to him (reproduced at the beginning of the decision).

Ms. X stated that she was not alone in disliking Marcel Morissette's actions and that during the lunch hour, other female employees discussed Marcel Morissette's behaviour and how, for example, he would stand a few inches away from them when talking to them.

In the past, and before she had intimate relations with Marcel Morissette, Ms. X had told her husband Marcel Morissette's about behaviour toward her. Her husband told her that it was her problem or that she should file a complaint.

At an information session provided to employees by the Department a few years before 1995, Ms. X asked questions about what to do if one was being harassed. She was told to talk to her supervisor. She then asked: "What if it is your supervisor who is doing the harassing, what do you do then?" When she returned to the swine facility after the presentation, Marcel Morissette rebuffed Ms. X in front of the swine facility employees because she had asked these questions. Ms. X was in tears.

Ms. X felt that she was being squeezed from all sides. She testified that she was being pressured at work by Marcel Morissette and at home by her husband.

Two or three years before the summer of 1995, she could have applied for a permanent job at the swine facility. She decided not to do so because of Marcel Morissette's behaviour toward her. However, he insisted that she try the competition. Ms. X gave as an excuse that she preferred to remain as a casual employee because it allowed her to be home more often with her children. Marcel Morissette became angry and refused to speak to Ms. X. He told her: "If you try to go elsewhere on the farm, I will do everything I can to prevent you from working in other sections." Ms. X testified that she was convinced that Marcel Morissette could prevent her from going elsewhere.

Ms. X had also told her husband that she did not want to be a permanent worker at the swine facility. Her husband also became angry. He told her that it was her only chance to become a permanent employee and that as such she would be able to file a complaint against Marcel Morissette. He reiterated that, as a permanent employee, her status would be less precarious than as a casual employee.

Ms. X stated that, some time before having intimate relations with Marcel Morissette, she stopped telling her husband about her problems with Marcel Morissette. She felt that her husband did not understand her. He had said to her: "If you are not able to file a complaint about him, hit him." She did not feel she could do that. Her husband also told her that it was her fault that they did not have a house and a boat, so that she did not feel that she could quit her job. She went on to say that, in order to please her husband, she felt that she had to work at the farm. Eventually when she told her husband about what had happened between her and Marcel Morissette, he left her.

After filing her complaint (Exhibit E-4), Ms. X was on sick leave for a month for depression. When she returned, she worked for six months in the library (located in a building other than the one in which the swine facility was located) and another six months in the cattle section. She did not speak to

Marcel Morissette again. An investigation (Exhibit E-3) was conducted after her complaint of sexual harassment was filed. Ms. X was forbidden to have contact with the swine facility employees.

Ms. X was afraid when the time came for her to resume her duties at the swine facility. Marcel Morissette was no longer in charge, his employment having been terminated, but Ms. X was afraid of the reaction of her colleagues. Louise Thibault, chair of the women's committee, had told her that Marcel Morissette had given employees his own version of what happened between them. Further, Ms. X knew that he had tried to manipulate some people before they testified before the investigation committee. Ms. X noted that she had been forbidden from having contact with the swine facility employees but that Marcel Morissette had remained in his position and had tried to intimidate people to his advantage.

Ms. X was also afraid to return to the swine facility because she would have to work with Dominique, Marcel Morissette's son. She was also aware that one of the female employees was angry with her because she had filed a complaint and she was afraid of her reaction.

Her personal life was also a mess. Although her husband did not give her any support before she filed her complaint, afterwards he wanted to know everything that had happened. She said to him: "Before you did not want to know anything, so I stopped talking to you about it."

At the time that she was to return to the swine facility, that is, in the fall of 1996, her husband, who now knew everything, was considering separation. Ms. X was thinking of committing suicide. She and her husband had long, difficult discussions about her relationship with Marcel Morissette and the events that took place at the swine facility. About a week before her return to the swine facility, she and her husband again had one of these long discussions about the events between Ms. X and Marcel Morissette. In the middle of the conversation, Ms. X told her husband that she was going out to get some chips.

She got in the car and drove to the swine facility with the intention of killing herself. It was evening, around 10:40 p.m. When she got to the farm, she

unlocked two doors on one of the buildings and took a gun, called a "matador". This is the weapon used to put the animals to sleep before slaughtering them. Ms. X lay down and put the gun to her temple. An employee came in and asked if anyone was there. Ms. X did not answer. A short time later, Ms. X's colleague, Claude Mayrand, came in. He found Ms. X and Ms. X began talking to him. She asked him how their fellow workers were reacting to her returning to the swine facility. Then her husband arrived; she had previously told him that she would use the matador to kill herself. He said: "I knew that I would find her here. I hoped that I would not be too late." After this incident, Ms. X's husband kept a close eye on her for a long time because he was afraid she would try again.

After the complaint was filed and before the incident with the gun, Marcel Morissette told the swine facility employees, and others including the researchers and technicians, the confidences that Ms. X had allegedly told him. Louise Thibault told Ms. X that Marcel Morissette had said things about her. He was trying to get everyone to side with him. Among other things, he said that Ms. X was a nymphomaniac.

Once while she was working in the library, Marcel Morissette's son, Dominique, came to the library and asked her if it was true that she had masturbated with a carrot. Ms. X was shocked. She realized that Marcel Morissette had revealed a sexual fantasy that she had told to him. She also realized that, when she returned to the swine facility, her colleagues would know the confidences she had told to Marcel Morissette.

Ms. X stated that a female employee had suggested that she do the same thing, that is, reveal Marcel Morissette's fantasies. She did not do so: "I am not a saint but I have principles", she testified.

Ms. X has a troubled family history. Her mother, as mentioned earlier, committed suicide a few years ago at the age of 44 years and was a victim of incest. She married to escape her aggressors. But later, the great uncle "harassed" the young girls, Ms. X's mother, Ms. X's aunt and Ms. X herself. He did so with the knowledge of Ms. X's grandmother, who said nothing. Ms. X complained to her mother who said: "he won't leave with it." She also told her:

"When you complain, it gets worse; the law is on the side of the bad guys". As for Ms. X's father, he had nothing to do with his daughters.

According to Ms. X, her own husband believed that she became a Jehovah's witness as a reaction to her mother's suicide but she does not agree; she was interested in this religion before her mother's suicide.

According to Ms. X, Marcel Morissette knew about her difficult childhood, her mother's suicide, the fact that Ms. X was depressed and that she was taking medication, because she told him about these things.

When counsel for the employer suggested to Ms. X that some people would consider that she was a consenting adult in her intimate relations with Marcel Morissette, she answered: "There was an atmosphere of harassment; we were forced to submit to it; I was confused by my depression and the medication; I was a casual employee and I did not think I had any recourse; he told me that he could prevent me for working elsewhere and I believed him; I was not happy about any of the intimate encounters." She added that: "No, it was not rape, but a hand on the shoulder, together with the words, "you are beautiful, you are wonderful", that is seduction." She also believes that her own increased sexual desire was the result of the medication, but she said that it was against her principles to act as she did. Ms. X added that, in the end, she was unable to say no to Marcel Morissette's advances.

During cross-examination, Ms. X repeated that she was afraid of losing her job, particularly since Marcel Morissette told her repeatedly: "You know, it is because of me that you have a job. I have kept you in spite of the fact that the others wanted you to leave."

It did not occur to her to tell the farm manager what was happening; "He was a young man who showed no interest in the swine facility." Nor did she feel confident speaking to the union representatives; "I did not really believe in that . . . Besides, most of the union members are men". Further, Marcel Morissette kept telling his employees that the swine facility team had to stick together "against the rest of the farm" and "that we have to settle our problems among ourselves". Ms. X thought there was cause to complain before 1995 but

she decided to put up with the situation because then she would keep the peace with her husband, who insisted that she had to work. She survived by telling herself that, in the winter, she could stay home.

Under cross-examination, Ms. X clarified that it was during the year preceding his holidays in July 1995 that Marcel Morissette became more insistent and tried by various means (looks, jokes, blocking her way, sweet talk, comments) to seduce her.

She began taking medication (Paxil) for her depression in May 1995.

Her increased libido (which she attributed to the medication), led her to begin acting differently a few days before Marcel Morissette left on holidays. Thus, one day when she was leaving the shower and was already dressed, she agreed to lift up her sweater and to show Marcel Morissette her undergarments.

However, it was before May 1995 that Marcel Morissette began telling her about his personal life. For her part, she told him that her husband was often away from home a lot and that she almost had to make an appointment to see him. However, she denies giving Marcel Morissette the impression that she wanted to have some other type of relationship with him than that of foreman-employee.

She admitted that beginning in spring 1995, she discussed subjects of a sexual nature more easily with Marcel Morissette.

She stated that she did not tell the director of the station, Dr. Jean-Marc Deschênes, all of the physical details of the five sexual encounters she had when she spoke to him. She did, however, tell him that these incidents took place at the workplace. She also told him that she felt she was a victim in these incidents, that Marcel Morissette wore her down in the end and that, under the circumstances, she no longer wanted to return to work.

Ms. X also stated under cross-examination that the day after each of the sexual encounters, she told Marcel Morissette two or three times that she did not want it to happen again. He did not make any advances on those days but shortly afterwards, his advances would start again.



When asked in cross-examination whether Marcel Morissette had clearly indicated to her that it could be detrimental to her work if she did not accept his advances, she admitted that he did not say that to her. She also admitted that she did not receive any special privileges, but that he was quite accommodating in terms of her hours of work.

Ms. X was accompanied by a representative from the *Centre d'aide de lutte contre les agressions à caractère sexuel* during the investigation that followed her sexual harassment complaint. At the investigation, Ms. X stated that she did not want sexual relations but that once they began, she made advances herself and she acknowledged that she participated voluntarily in the intimate relations.

Ms. X repeated that Marcel Morissette knew that she was depressed and was taking medication. She allegedly even told him that she was thinking of suicide. Indeed, before leaving on holidays in summer 1995, he brought her newspaper clippings about healthy eating to combat depression.

The shame that Ms. X felt over having an extra-marital affair led her to make a public confession in front of a committee composed of three men, selected by Jehovah's witnesses, sitting in the Throne Room during a meeting of Jehovah's witnesses.

Ms. X stated that she told Marcel Morissette repeatedly that it was not "biblical" to have sexual relations with him and that she did not wish to continue. However, she felt torn because she wanted to keep the peace with her husband who wanted her to keep her job. She also stated that she herself did not want to go into the private sector because "it was sometimes worse, they would grope you there".

She explained that she took the initiative two or three times, after the sexual relations had begun, because she was depressed, taking medication and suffering from the side effects.

Since filing her complaint, Ms. X testified that she has recounted these events about twenty times to various people including a psychologist,

psychiatrists, Jehovah's witnesses, the investigation committee, various lawyers, her husband, unemployment insurance representatives, and representatives of the Employee Assistance Program.

The psychiatrists told her that a predisposition to depression is partly hereditary, but that the events that a person experiences can make it worse.

#### Testimony of Dr. Chantal Farmer

Dr. Chantal Farmer holds a doctoral degree in endocrinology. She has been a scientific researcher at the Lennoxville Research Centre since 1986 and an associate professor at the University of Sherbrooke. She specializes in the study of swine. Since her arrival at the Research Centre, she has worked closely with the foreman of the swine facility, Marcel Morissette. As a researcher, she designs the scientific research projects that are carried out in the swine facility under Marcel Morissette's supervision. She is assisted by a technician, Louise Thibault, who acts as the intermediary between Dr. Farmer and Marcel Morissette.

According to Dr. Farmer, Marcel Morissette is very competent and carried out the projects very well. However, the swine facility was his "little castle", his "empire". Her technician, Louise Thibault, was not very welcome there because Marcel Morissette preferred to deal directly with the researchers. Marcel Morissette controlled all aspects of the work. Dr. Farmer was aware that the employees respected Marcel Morissette's expertise. She was also aware that they wanted to please him.

During cross-examination, Dr. Farmer commented that it was obvious that Marcel Morissette had a hold over people, particularly the labourers. "The men left, the women stayed. Employees did not even dare eat a poutine at work, because Marcel Morissette did not approve of it. They would eat after he left."

Dr. Farmer had the opportunity to observe some of Marcel Morissette's behaviour.

When she first started at the Research Centre in 1986 and was working at the swine facility. Marcel Morissette put his hand on her buttock. She

removed his hand and, without saying a word, looked at him in such a way as to convey the fact that she did not want him to do that. Marcel Morissette understood and that type of incident never occurred again.

Throughout the years she worked with him, Dr. Farmer noted that Marcel Morissette was "very physical; he stood too close to people; you had to back away from him; he invaded your living space; he did not respect the instinctive distance between two people". She described him as "overbearing" and "overpowering". He dressed in "fringed shorts and a small low-cut sweater, a silver chain". He was "proud of his physique". He told "many sex-related jokes". He was the person who told most of the stories at the swine facility. Dr. Farmer agreed to "play along" reluctantly. "After all, I used to play hockey", she explained. He made comments about the personal lives of two of his female employees, Marielle Vanier and someone called Irène.

According to Dr. Farmer, it was obvious that Ms. X did not appreciate it when Marcel Morissette told sex-related stories. She would try to slip away; sometimes she left the room. She never laughed.

According to Dr. Farmer, throughout the years that she worked with Marcel Morissette, he had a reputation of "liking his body and liking women". He was considered to be "macho". The women talked about him among themselves: "Make sure that you are never alone with Marcel." Female students were warned. The female students leaving the Centre would warn the ones arriving. "It was passed from one to the other".

Dr. Farmer witnessed the incident in which Marcel Morissette put his hand on Francine Phaneuf's thigh. She also saw him give courses on the "Nadeau" technique. This technique requires a swaying of the hips. Dr. Farmer noticed Marcel Morissette's expression and she would not have "liked to be the object of it". She saw him touch while he was instructing. She described him as "someone with whom you had to be on guard".

After Ms. X filed her sexual harassment complaint, Marcel Morissette came to see Dr. Farmer to give her his version of the facts. "He wanted to give me his version, to convince me that he was right." Marcel Morissette told Dr.

Farmer that Ms. X was probably a nymphomaniac and that she liked sex. He also told her that Ms. X had "special tastes"; he claimed that she offered him a carrot, which he ate and that she told him she had just masturbated with it. He also said that, one time, Ms. X had put her hand in Marcel Morissette's pants.

Dr. Farmer testified that she would have preferred not to have heard these things.

During the investigation, Dr. Farmer told the investigator that Marcel Morissette had placed a hand on her buttock. She also told Marcel Morissette that she had told the investigator this. Some time later, during a telephone conversation, she learned from the investigator that Marcel Morissette had told the investigator that, in the past, Dr. Farmer had taken advantage of a moment when an employee was bending over to touch his private parts. Dr. Farmer told the investigator that Marcel Morissette wanted to destroy her credibility by telling a complete lie.

Dr. Farmer felt degraded by this fabrication and that her personal integrity had been attacked. She told her husband about the incident.

Although she acknowledged Marcel Morissette's competency, Dr. Farmer stated that his departure had had a positive effect on the work atmosphere. Dr. Farmer's technician, Louise Thibault, is much more welcome now at the swine facility. People are now free to act and speak as they wished at the swine facility. The atmosphere is calm, even though there has been a new acting foreman every four months. Dr. Farmer had noted that Louise Thibault and Francine Phaneuf, who were "stifled" when Marcel Morissette was foreman, were asserting themselves much more. She felt that Marcel Morissette's return would be insupportable. She also indicated that she felt that the control that Marcel Morissette had exercised over people was unhealthy and that people had been forced to go along with it, "to make him happy all the time". She mentioned as an example the fact that they were forbidden to eat poutine in his presence.

Testimony of Claire Corriveau

Claire Corriveau is a lab technician. She specializes in ethology (scientific study of animal behaviour in a natural context). She has worked at the Lennoxville Research Centre since 1981. She has been working with researcher, Suzanne Robert, since 1992.

Since 1981, Claire Corriveau's work has required regular contact with Marcel Morissette. During the animal phase of research projects, she can be required to spend anywhere from half an hour to half a day at the swine facility.

Claire Corriveau testified that there was a great deal of work done at the swine facility and that the team worked hard. A great many "off-colour jokes" were told, especially by Marcel Morissette. Whenever she was at the swine facility, she would hear Marcel Morissette telling "amusing or less amusing stories, off-colour and coarse jokes". They were mostly directed toward the women.

According to Claire Corriveau, Marcel Morissette had two sides: from the standpoint of work, he was creative and innovative, but on the other hand, "he was a ladies' man". The women told each other to watch out for him. "Marcel Morissette sets it up so that the women working for him have the type of personality he likes". He "likes touching: touching shoulders, arms, holding your hand". "I was not put off by it, but he touched me in the "right" places".

Ms. X did not appreciate Marcel Morissette's jokes. When he told them, she would leave the room. Claire Corriveau never saw Ms. X participate willingly in the jokes.

At an employees' meeting in 1995, Ms. X expressed her concerns about what to do in the event of sexual harassment. Several employees knew that she was referring to Marcel Morissette.

A short time before the sexual harassment complaint was filed, Marcel Morissette spoke to Claire Corriveau about Ms. X. He told her that Ms. X was

having problems, that she had made two suicide attempts and that she was doing better now that she was on medication.

At a seminar on September 19, 1995, Claire Corriveau noticed that Ms. X was calmer.

Employees at the swine facility have been relaxed since Marcel Morissette left. They have an opportunity to develop their skills. When Marcel Morissette was there, she felt that they were stressed, upset and unable to assume responsibilities, except for Marcel Morissette and his son. It was good to see Marcel Morissette leave.

#### Testimony of Louise Thibault

Louise Thibault is a technician at the Lennoxville Research Centre. Her supervisor is Dr. Chantal Farmer, whose testimony is reported above.

Louise Thibault is 38 years old. She has held her position since 1981. She acts as the intermediary between Dr. Farmer and the swine facility employees, and especially Marcel Morissette. She was chair of the women's committee for about 10 years. The committee is not very active. There are only two meetings a year. No representative from the swine facility sits on the committee. Louise Thibault resigned as chair in about 1996.

As a technician, she regularly goes to the swine facility. She used to deal with Marcel Morissette. She was required to monitor the protocol developed by her boss, Dr. Farmer, and implemented by the swine facility foreman, Marcel Morissette. Marcel Morissette did not appreciate her interventions. There was tension between them. Marcel Morissette would go over Louise Thibault's head and speak directly with the researcher, Dr. Farmer.

During the years that Louise Thibault dealt with Marcel Morissette, she heard him tell off-colour jokes of a sexual nature. In her opinion, it was he who told these stories 90 per cent of the time at the swine facility. She did not appreciate his jokes. Upon occasion, a female employee would follow up on Marcel Morissette but, for the most part, the employees would only laugh

nervously. Ms. X also did not find the stories amusing. It was obvious that she did not appreciate this type of humour.

On more than one occasion, Louise Thibault saw Marcel Morissette stand in front of his employees wearing his briefs. He would go from his office to the shower in these scanty coverings. Louise Thibault was uncomfortable with this. She was not the only one. Students from the CEGEP also witnessed this behaviour.

Marcel Morissette reported to work in shorts and a tank top. In front of the women, he was very "macho", sure of himself, and overbearing, and his mode of dress went with his behaviour.

Female students who worked at the swine facility during the summer were warned by the ones who had been there before. Sophie Hart, for example, who arrived in May 1995, was warned about Marcel Morissette by a female doctoral student, Nicole Roy who had been there before her.

At the time of the investigation of the sexual harassment complaint, Louise Thibault suggested the names of people who might have seen this behaviour. People who were upset or uncomfortable came to her. For example, the technician, Michèle Guillette, told Louise Thibault that Marcel Morissette had told her that Ms. X had masturbated with a carrot; she found it hard to listen to such things.

Louise Thibault added that, while she was chair of the women's committee, she did not hear of any official complaints against Marcel Morissette. Moreover, she herself would not have dared to complain about his behaviour. "We were all afraid . . . Even though I was chair of the women's committee, I had to work there and therefore I would not file an official complaint . . . I was a permanent, unionized employee, but my work was very difficult. I was afraid of reprisal by Marcel Morissette and that he would make my life even more difficult . . . Moreover, at the end, I felt a great deal of pressure; he called my boss to tell her that what I was doing was wrong."

Louise Thibault did not attend the lessons on the "Nadeau" technique offered by Marcel Morissette. However, one day, Marcel Morissette, "for whom the body was very important", arrived at work with a device to measure body fat. He offered to measure people's adiposity. Louise Thibault refused. She felt she was being attacked because she had recently had a baby, had recently returned from maternity leave and "when you come back from maternity leave, you do not like yourself physically". However, she did not feel that the gesture had any sexual connotation.

Louise Thibault also stated that it would have been unusual for the female students to complain officially because they were young, they were in their first job, and it was a question of power.

Louise Thibault added that she was not personally the object of sexual harassment by Marcel Morissette.

Around 1993-1994, Marcel Morissette threatened Louise Thibault. He told her to stop talking about the internal operations of the swine facility, to be careful about the impression she gave of the swine facility if she wanted the swine facility to purchase farm equipment from her husband's business. (Marcel Morissette had purchased equipment from Louise Thibault's husband on one or two occasions.) Louise Thibault said to him: "We don't need your business." In Louise Thibault's opinion, it was clear that Marcel Morissette was trying to intimidate her.

Lastly, Louise Thibault stated that she did not want Marcel Morissette to return to the swine facility and that work had been much pleasanter since he left.

#### Testimony of Francine Phaneuf

Francine Phaneuf is 26 years old. She has been a casual employee in a labourer position (GL-MAN-06) at the Lennoxville Research Station since September 1991. She completed her studies in animal health in May 1991. Her colleagues were Marcel Morissette's son, Dominique Morissette (GL-MAN-07) (became a permanent employee but was a casual employee at the time of her arrival), France Champagne (GL-MAN-07)



(also became a permanent employee after Francine Phaneuf's arrival) and Claude Mayrand (GL-MAN-07) (also became a permanent employee).

Francine Phaneuf went to school with France Champagne and Claude Mayrand and was pleased to find them there.

The work at the swine facility was done in teams of two in four separate buildings. Employees worked during the day and every second weekend. They also had to be at work in the evening when the hogs had to be inoculated. The foreman, Marcel Morissette, decided on the composition of the teams.

In general Francine Phaneuf did not get along well with Ms. X. She found her to be ambivalent, unstable and moody. She got along fine with Ms. X and liked her when she was in a good mood, but Francine Phaneuf felt that Ms. X was criticizing her by her comments when she (Ms. X) was not in such a good mood.

She got along fine with Marcel Morissette. It was he who showed her how to do her job.

During breaks, the swine facility employees and Marcel Morissette would get together in Building 7. They would tell each other all sorts of stories but mostly ones that were about sex. Lots of stories were told. Some employees told more than others did. Ms. X did not tell any. It was obvious that she did not like this type of humour. Sometimes she would get up and leave, slamming the door.

Francine Phaneuf usually showered at home. She used the shower room to change her clothes four times a day.

Marcel Morissette and his son, Dominique, often left the door open when they were in the shower. Marcel Morissette undressed in his office or in the shower. He would be wearing his underwear (briefs) when he went from his office to the shower or from the shower to his office. When she saw him dressed that way, Francine Phaneuf felt "uncomfortable". On the other hand, according to her, she was the one who handled the situation the best, who had the greatest amount of tolerance. The other employees were even more uncomfortable than she, particularly France Champagne.

Francine Phaneuf decided not to do anything about this situation. She rationalized by telling herself that it was the downside to her job. Moreover, she was new to the government. She explained her attitude by saying: "I had had other jobs before. In them, it was something else; in this job, it was this." However, she told her family about Marcel Morissette's behaviour. Her family felt that it was "reprehensible behaviour". Francine Phaneuf decided not to do anything. She and France Champagne talked about it. They did not agree. Francine Phaneuf rationalized that it was a harmless gesture by Marcel Morissette, explained perhaps by the fact that he was athletic. France Champagne was emphatic: she objected to such behaviour. She decided to speak to Marcel Morissette about it. Francine Phaneuf thought she was brave. However, she noted that Marcel Morissette and his son, Dominique, made fun of France Champagne. For a while, Marcel Morissette stopped walking around in his briefs but then he started doing it again.

Francine Phaneuf felt that she was the employee most spoiled by Marcel Morissette. She was criticized less frequently than the others were. She thought "it was nice to be able to work without being criticized".

From time to time Marcel Morissette touched her. Sometimes he touched her on the hand, the shoulder or the thigh. She did not say anything, even though she was "uncomfortable", because she preferred "to ignore it" in order to "maintain a good work environment". She also thought that Marcel Morissette "would perhaps be offended" if she said anything.

On one occasion, she was in a vehicle with Marcel Morissette. She was sitting beside him and France Champagne and someone called Joëlle Boudreau were sitting in the back. Marcel Morissette laid his hand on Francine Phaneuf's thigh "high enough for her to be uncomfortable". He left it there for one or two minutes.

Francine Phaneuf automatically glanced at France Champagne. She saw that France Champagne had seen what happened. After the incident, Francine Phaneuf felt there was a need to give an explanation to France Champagne, because she had a great deal of respect for her. Since Marcel Morissette's action appeared to be quite natural, she explained to France Champagne that it was not something that happened regularly. France Champagne did not seem to believe her. She thought that France

Champagne might not have believed her because she (Francine Phaneuf) was the female employee who was "closest" to Marcel Morissette. Francine Phaneuf explained to France Champagne that she had chosen not to say anything. Even at the time of her testimony, Francine Phaneuf had trouble convincing herself that France Champagne believed her explanations.

Marcel Morissette confided in Francine Phaneuf a great deal. He shared his ideas about work with her. He spoke about his personal life, his life as a couple. He raised sex-related issues in front of his employees and encouraged such discussions. Francine Phaneuf considered him to be "have a more licentious outlook" than the rest of the group". She commented that France Champagne "did not agree at all" with Marcel Morissette's ideas.

When he returned from having surgery, Marcel Morissette told his employees that, after the operation, he had "a good erection" because of an injection he had been given and that the nurses came to check it out. The employees laughed.

Francine Phaneuf stated that the jokes went quite far.

It was in May 1995 when the relationship between Francine Phaneuf and Ms. X began to improve. In the past, Francine Phaneuf had been hurt by a comment made by Ms. X and had responded "tit for tat". There was bitterness between them. But in May 1995, Ms. X was under the care of a physician and was taking medication. (Francine Phaneuf thought that it was Prozac.) Francine Phaneuf was aware that Ms. X was being treated because Marcel Morissette had told her. She noticed that, beginning in May 1995, Ms. X seemed to be much better. She was nicer to work with. However, Francine Phaneuf felt that Ms. X's good mood seemed artificial. She attributed it to the medication that Ms. X was taking.

The employees travelled with Marcel Morissette from time to time. He was the one who decided who would accompany him. Francine Phaneuf made a trip with him. In summer 1995, Marcel Morissette chose Ms. X to accompany him. Francine Phaneuf witnessed a scene in which she realized that Ms. X did not want to travel with Marcel Morissette. The scene went as follows.

When she (Francine Phaneuf) and Ms. X were with Dominique, Marcel Morissette's son, Ms. X said in an insistent tone, while holding Dominique's arm with both hands: "I do not want to go on the trip with your father; he has wandering hands." Dominique Morissette began to laugh. According to Francine Phaneuf, Ms. X's eyes were wide open and it was clear that she did not want to travel with Marcel Morissette.

Dominique Morissette told Francine Phaneuf afterwards that he told the whole thing to his father and that his father was not pleased.

It was a Monday in October that Francine Phaneuf learned that Ms. X had filed a harassment complaint against Marcel Morissette. Ms. X did not come into work that day.

Marcel Morissette was very nervous that Monday. He told Francine Phaneuf that he was afraid that Ms. X had killed herself. He added that Ms. X had already told him that she would use the "matador" (gun) to kill herself. Francine Phaneuf, France Champagne and Marcel Morissette went to look for Ms. X. Francine Phaneuf testified that they were afraid that they would find her body, a letter or some sign. France Champagne found Ms. X's personal belongings in the hayloft. According to Francine Phaneuf, Marcel Morissette was nervous: "He was panicking and for half an hour we looked for a body, a letter or the matador."

The same day, the Director, Dr. Jean-Marc Deschênes, called Francine Phaneuf to his office. He told her that a complaint had been filed against Marcel Morissette. Francine Phaneuf asked Jean-Marc Deschênes if it had been filed by Ms. X. She explained to him that, in her opinion, Ms. X was the most likely person to complain.

An investigation followed the complaint. Francine Phaneuf testified during the investigation. It was not until a month after she testified that Francine Phaneuf found out what was in the complaint. At the time of her testimony, she knew that it was a sexual harassment complaint but she did not know the details. At the time of the investigation, Francine Phaneuf was led to believe that Ms. X was exaggerating.

During this time, Marcel Morissette tried to influence his employees. He tried to influence their opinions. He told Francine Phaneuf "shocking things", including what

he claimed were Ms. X's sexual fantasies. He even went so far as to describe what Ms. X did when her husband refused her. On hearing Marcel Morissette's comments, Francine Phaneuf "liked Ms. X less and less". At the time, she only had Marcel Morissette's version to go on. He told his version of events, as well as details of what he claimed were Ms. X sexual fantasies, at the coffee break in the presence of France Champagne, Claude Mayrand, Francine Phaneuf and Dominique Morissette. They laughed when they heard what Marcel Morissette said.

Since then, Francine Phaneuf's opinion has changed. Now she believes that Marcel Morissette reinforced the bad opinion she had of Ms. X. At no time did Marcel Morissette acknowledge his part in this affair so that, when Francine Phaneuf spoke with the investigator, she was "prejudiced" in favour of Marcel Morissette. She decided not to mention to the investigator the fact that Marcel Morissette put his hand on her thigh, because "a hand on the thigh might derail the investigation" and Marcel Morissette told his employees repeatedly that "they had to stay together as a team" during the investigation.

After the investigation, Francine Phaneuf overheard a conversation between Marcel Morissette and his son, Dominique. The three were at the entrance to Building 7 and were discussing Ms. X's complaint. Dominique asked his father: "Are you innocent, Marcel?" Marcel Morissette did not answer. Voices rose. Marcel Morissette refused to answer, then he said: "Is there anything wrong when there is consent?" Dominique, his son, answered: "So you are not innocent and I was ready to lose my job, to defend you at all costs." At that point, Francine Phaneuf interjected: "Marcel, you were her boss", and she said it several times. Each time, Marcel Morissette's answer was: "So what has being the boss got to do with it?" According to Francine Phaneuf, it was obvious that Marcel Morissette did not see how the authority relationship between him and Ms. X could have had any bearing. "In his view, the only factor was the consent of the parties".

It was this conversation that changed Francine Phaneuf's opinion of the whole matter. She was disappointed to discover Marcel Morissette's attitude. She also realized that "something wrong" had gone on. It was clear that Dominique Morissette was also disappointed. Francine Phaneuf discussed this conversation with France Champagne and with Claude Mayrand, who had also heard the conversation.

Francine Phaneuf believes that, at the time of the investigation, she was “dead set against” Ms. X and she did not try to get her version. Her colleague, France Champagne, on the other hand, went to see Ms. X and was interested in her version of the facts. She shared it with Francine Phaneuf.

When she heard this version from France Champagne, Francine Phaneuf was surprised. She was struck by Ms. X's sincerity. She noted that Ms. X did not deny certain things.

A year after filing the complaint, Ms. X returned to her job at the swine facility. She told Francine Phaneuf what had happened between her and Marcel Morissette. Again, Francine Phaneuf was struck by her honesty. She did not even deny the fantasy about the carrots. Moreover, she said nothing about what Marcel Morissette had done. She was not vengeful toward him. Francine Phaneuf noted that Ms. X “did not throw mud at Marcel Morissette even though she had reason to do so”. On the other hand, despite everything he had said about Ms. X, Marcel Morissette never admitted outright to Francine Phaneuf that he had had sexual relations with Ms. X.

Since Marcel Morissette's departure, the climate and the employees at the swine facility have changed. Francine Phaneuf feels more relaxed. She has noticed that her colleagues feel the same way. The way they work has changed. The employees feel freer. They are part of the social life of the farm, which was not the case when Marcel Morissette was there. They eat what they want at work, when before they felt uncomfortable eating a chocolate bar in front of Marcel Morissette or bringing a coffee maker to work. Francine Phaneuf explained that Marcel Morissette was able to control even the smallest detail of the lives of his employees at work because they were new and they were afraid of being reprimanded by Marcel Morissette. Some had been reprimanded in the past. In addition, the female workers were not doing traditional woman's work. They felt insecure, particularly since they were casual employees. Francine Phaneuf had once tried to find out from Marcel Morissette what their working conditions were with respect to maternity leave. He told them that they were not entitled to maternity leave but that they could take leave without pay.

After Ms. X filed her complaint, Marcel Morissette suggested to the employees that they distance themselves from the complaint (Exhibit E-4) and he wrote a letter

(Exhibit E-10), which was typed by France Champagne. Francine Phaneuf refused to sign the document because she felt it was being forced on her. She decided to write one of her own (Exhibit E-11) in order to clarify a point, because she disagreed with the use of "nous" (we/us) by Ms. X in her complaint (Exhibit E-4).

During cross-examination, Francine Phaneuf testified that she had a change of heart after Ms. X filed her complaint. Specifically, she attended an information session on harassment and realized that she and her colleagues should have done something about what Marcel Morissette was doing. Only France Champagne had dared to tell Marcel Morissette that she did not want him to stand around in his briefs. When she was ridiculed, she did not dare to raise the issue again.

Francine Phaneuf stated that Marcel Morissette was close to his employees on a personal level. Toward the end, before he was dismissed, he told her a lot of things related to the complaint. During this time, neither one of them was working. The work was being done by others. She admitted that he had allowed her to train a guide dog for the blind at work.

Since Marcel Morissette's departure, the atmosphere at work had improved and researchers, technicians and swine facility employees alike felt more relaxed in carrying out their duties. When Marcel Morissette was there, the employees did not complain to his superiors, and certainly not the farm manager, who rarely came to the swine facility. Moreover, according to Francine Phaneuf, Marcel Morissette and his son, Dominique, were an "imposing duo" that no one dared to offend. She attributed this passiveness by the employees to the fact that this was their first job and they were casual employees.

The employees discussed their real feelings with each other, except when Dominique Morissette was there, because, according to Francine Phaneuf, he reported everything to his father.

Francine Phaneuf explained that she distanced herself from the "nous" [we] used by Ms. X in her complaint (Exhibit E-4), but she was well aware that Marcel Morissette had done things that were "reportable". Dominique, Marcel Morissette's son, was a permanent employee. He regularly reminded Francine Phaneuf that she was a casual employee. According to Francine Phaneuf, there was an "omnipresent" unease

at the swine facility. The permanent employees felt they were being controlled, and the casual employees felt it even more so. They lived in a vacuum. No one dared complain about the fact that it was Dominique, Marcel Morissette's son, who was always the acting foreman in his father's absence. Since Marcel Morissette's departure, each employee in turn has had an opportunity to be the acting foreman. While Marcel Morissette was there, the employees did not complain to the union. Indeed, it would not have been easy to do so because Dominique Morissette was a member of the union executive for about a year.

Francine Phaneuf regrets that she did not get Ms. X's version before she formed her opinion on this case. She believes that Marcel Morissette influenced her opinion following the filing of Ms. X's complaint. She testified that "All I heard from Marcel was crude comments and he never admitted what he had done." He only said negative things about Ms. X. However, when Ms. X returned to the swine facility, a year after she filed her complaint, Francine Phaneuf heard her version.

What stuck Francine Phaneuf when Ms. X told her version was that she did not deny the facts. However, she did not specifically say there had been sexual relations between her and Marcel Morissette. She reiterated that she could not longer put up with the pressure from Marcel Morissette, that she could not quit her job, and that she was the one supporting her family. She did not deny the two fantasies that Marcel Morissette had told Francine Phaneuf about.

Francine Phaneuf explained that she said Marcel Morissette was a "respectful gentleman" at the investigation because Marcel Morissette had told her that "the women at judo were affectionate toward him". However, she did not reveal, at the time of the investigation, that Marcel Morissette had continued to walk around in his underwear in front of his employees.

She also felt that she had been treated well by Marcel Morissette from a work standpoint, and that she had not received much criticism from him.

#### Testimony of France Champagne

France Champagne is 26 years old. She is a labourer (GL-MAN-07) in the swine facility of the Lennoxville Research Station. She started working in 1991. She had



received her degree in animal health from the CEGEP. She studied with Francine Phaneuf and Claude Mayrand.

She described Ms. X as a very friendly person but somewhat moody.

She described Marcel Morissette as a man who knew how to get things done. However, on a personal level, he was a "touchy" man. She stated that she had handled her problems with him. For example, when they were at the table, he had put his hand on her thigh. She told him to stop. He did it again. She squeezed his hand very hard so that he understood he was to stop. On other occasions, he put his hand on her shoulder. Initially, she was afraid. Later, she told him directly that she did not like being touched. It stopped.

She saw Marcel Morissette touch others. She saw him place his hand on the buttocks of Ms. X when they were in the "maternity" area (for the pigs). She did not see Ms. X's reaction.

Once when she was in a vehicle with Marcel Morissette and Francine Phaneuf, she saw Marcel Morissette place his hand on Francine Phaneuf's thigh. He left his hand there a long time. Francine Phaneuf did not react. France Champagne thought there was something going on between them. Later, Francine Phaneuf came to explain to France Champagne that she had felt like she could not move. France Champagne had trouble understanding such a reaction. However, she did say that, at the start, she too was unsure what she should do about Marcel Morissette's behaviour. Finally, she acknowledged that her feelings were important and she no longer allowed Marcel Morissette to act that way. She realizes that there are women who do not react the same way she does. She tries not to judge them. However, she wanted to know why Francine Phaneuf had not reacted during the incident in the vehicle and removed Marcel Morissette's hand. She asked her about it. Francine Phaneuf said that she did not know what to do and that she was unable to do anything. She added that on another occasion when she (Francine Phaneuf) was alone with Marcel Morissette in a vehicle, he had held her hand throughout the trip.

As for Ms. X, in about 1993-1994, she told France Champagne that Marcel Morissette had cornered her and touched her, that he had taken her into a corner and touched her breast. She too said that she did not know what to do. France Champagne

told her to "Push him away". On that occasion, Ms. X was so upset that she cried the whole evening. When France Champagne returned home that night, she was so shocked that she told her husband what Ms. X had told her. He told her not to get involved. France Champagne realizes now that Ms. X felt all alone.

On another occasion, during an information session on harassment, among other things, Ms. X asked specific question about harassment. France Champagne realized that she was alluding to Marcel Morissette. She felt uncomfortable because she did not want Ms. X to get Marcel Morissette in trouble because he was a "good boss". Now that she is out of the situation, she has a better understanding of things.

During summer 1995, France Champagne noticed a change in Ms. X. She was "high". France Champagne did not think it normal. Marcel Morissette told her that Ms. X was taking pills and he told Ms. X's colleagues that she was seeing a psychologist. According to France Champagne, Ms. X was unusually happy.

They told sex-related jokes at work. Often, it was Marcel Morissette who told them. France Champagne decided to "join the crowd". Ms. X was a Jehovah's witness and her colleagues knew that it was better not to tell jokes in front of her.

There were two showers for the employees. The employees changed their clothes in the shower area. Marcel Morissette walked around in his briefs in front of the employees. It made France Champagne uncomfortable. Wearing only his briefs, Marcel Morissette stood in the doorway of the kitchen and spoke to France Champagne. This also made her uncomfortable. The employees talked about Marcel Morissette's behaviour among themselves. France Champagne wanted to do something but the other employees did not support her. One day, France Champagne told Marcel Morissette that she wanted him to stop walking around in his underwear in front of her. Marcel Morissette told her that she was a prude and laughed at her. The other employees told France Champagne that they thought she had been brave to speak up. Marcel Morissette continued to walk around in front of the employees wearing only his underwear. France Champagne gave up trying to get him to change. "I lacked courage," she said. "I told myself that maybe it was my fault; Marcel Morissette had good arguments and convinced me that I was the one who had to change."

When she came back from holidays in October 1995, France Champagne learned that Ms. X had filed a complaint against Marcel Morissette. She was not surprised because she remembered everything that Ms. X had told her.

Marcel Morissette read the complaint very quickly to the employees. France Champagne interrupted him saying: "Yes, that happened." Marcel Morissette wanted the employees to have no part of the complaint. He told them that Ms. X had used the term " nous " [we] in her complaint. France Champagne told him that she did not think that the "we" included her. One morning, Marcel Morissette showed up with a letter (Exhibit E-10) that he had written. He wanted France Champagne and Francine Phaneuf to sign it. France Champagne was confused but she agreed to type the letter. However, she refused to sign it. The letter (Exhibit E-10) objected to the wording used by Ms. X in her complaint.

When France Champagne told Marcel Morissette that she would not sign the letter (Exhibit E-10), he was not happy. He told her that if that was the case, then she could expect his behaviour toward her to change. And indeed, in the days that followed, he ignored France Champagne. She felt she was being punished. She decided to write her own letter (Exhibit E-12), dated November 30, 1995, in which she stated that Ms. X had not spoken to her before writing the complaint and that, consequently, she could not support the complaint.

France Champagne described the atmosphere that existed in November 1995. Before she gave her deposition (Exhibit E-3) to the committee investigating Ms. X's complaint, Marcel Morissette had told her, as well as the other employees, that he would have access to their depositions. France Champagne checked on this and was told that Marcel Morissette would have knowledge of the employees' depositions before the investigating committee. She was afraid and she was still afraid when she gave her deposition. She was afraid of Marcel Morissette's reaction and that he would make trouble for her.

France Champagne described a climate of intimidation during the weeks following the filing of Ms. X's complaint and before her own deposition before the investigating committee.

When they were alone, France Champagne told Marcel Morissette that she had seen him touch Ms. X. Marcel Morissette could see that the employees were not taking his side and so he tried to influence them. He told them all sorts of things about Ms. X. He claimed that she had fantasies and he told them to the employees in great detail. He told confidences that Ms. X had shared with him and he tried to convince the employees that Ms. X "was a hot woman".

On two occasions when he was speaking to them, he tossed the chairs around and punched the wall. France Champagne thought he was trying to intimidate them.

France Champagne decided to go and talk to Ms. X. Ms. X did not denied what took place between her and Marcel Morissette. France Champagne asked her why she did not seek revenge and tell the confidences that Marcel Morissette had told her. Ms. X replied that she would not do that and that she would keep his confidences.

France Champagne told Marcel Morissette that she had spoken to Ms. X. He told her off. She told him that she had a right to speak to her. She reproached him for trying to "put Ms. X down". France Champagne pointed out that Marcel Morissette told all sorts of things about Ms. X but nothing about what he had done.

France Champagne was also pressured and questioned by Dominique Morissette, Marcel Morissette's son. She described him as a son who admired his father and wanted to impress him. He asked the employees if they had seen anything. Later he told them: "You did not see anything!" Even later, some of the female employees told him that they did not want to hurt him but then they told him what they had seen. In speaking with Dominique Morissette, she realized that he knew what the employees had said in their depositions to the investigating committee.

France Champagne indicated that she had been pressured by several people: Marcel Morissette, Dominique Morissette, Francine Phaneuf ("have to help Marcel"), Claude Mayrand ("tell the truth"). She did not want to say anything that would cause her trouble later on. Accordingly, she decided to be more open with the investigator after making her deposition and that was when she showed him "the rest of the iceberg". She told him that Marcel Morissette had placed his hand on her thigh and that she had seen him do the same to Francine Phaneuf.

Under cross-examination, France Champagne stated that, after Ms. X filed her complaint, no one wanted to come to work because Marcel Morissette talked of nothing else. The employees got together to talk about it. Marcel Morissette's son tried to get them to take sides.

In response to a question from Marcel Morissette's representative, she indicated she remembered a party during the summer of 1995 when the employees were throwing water at each other. In her opinion, Ms. X seemed unusually happy.

In France Champagne's opinion, the employees were living in a vacuum (they did not go to the main building) and were controlled by Marcel Morissette, who was the only one in authority at the swine facility. She felt so controlled by Marcel Morissette that she told him what was in her deposition to the investigating committee. The other employees did the same.

#### Testimony of Dr. Marc Guérin

The employer called as a witness Dr. Marc Guérin, a psychiatrist. His expertise was accepted by Marcel Morissette's representative. His testimony can be summarized as follows.

In February and March 1997, Dr. Guérin assessed Ms. X. He submitted a report (Exhibit E-15), which contained his findings.

He testified that, during their sessions, Ms. X told him of what she had experienced since arriving at the Lennoxville farm, her hesitation about working under Marcel Morissette, her husband's insistence that she work there, the sexual harassment she experienced from Marcel Morissette from the time of her arrival, the degrading comments he made about her and about other women. Beginning in 1993, she wanted to quit her job but her husband was against it. She experienced periods of depression in 1995. Her husband's objection to her quitting work made her feel that she was at an impasse. In spring 1995, she began taking medication (*Paxil*) which made her feel better. She experienced a period of heightened sexuality. Dr. Guérin could not confirm that this was due to the medication but he did not rule out the possibility either. He also put forward the theory of a hypomanic episode. In this state, Ms. X gave in to the advances by her supervisor. Ms. X decided to file a

complaint against her boss and afterwards, fell into another depression. Feelings of guilt and thoughts of suicide followed. She then underwent anti-depression therapy using a new medication. When Dr. Guérin saw Ms. X her depression was under control and she was only suffering from a personality disorder with no psychotic features.

According to Dr. Guérin, Ms. X's family background has to be taken into consideration in order to understand her. Her mother, who committed suicide, received several lovers at her home and permitted Ms. X's uncles to touch her. She was an inadequate mother figure. Ms. X did not want to be like her mother. She decided to join the Jehovah's witnesses. However, she had two value systems. She was also emotionally immature (although this immaturity was not particularly pathological). She had a tendency to give in to her impulses. She was excited by her supervisor's attitude. The result: she was in a conflict situation. She was living on two levels: internal and external. She was in conflict with her desires, which were being reinforced by her supervisor. The contradiction between her two value systems created anxiety. She became depressed as a defence mechanism.

The anxiety she was experiencing in 1995, coupled with the fact that her husband did not want her to quit her job, put her at an impasse.

The medication (*Paxil*) that her physician prescribed in April 1995 could have caused her to become sexually hyperexcited, although normally the opposite occurs. It is also possible she experienced a period of anxiety and a hypomanic episode.

According to Dr. Guérin, depression is an illness, a mood disorder, characterized by sadness and accompanied by symptoms such as a loss of interest in life's pleasures and a feeling of fatigue. It is also accompanied by neuro-vegetative signs, such as insomnia and sometimes hypersomnia, loss of appetite, loss of weight and overeating. In the most severe cases, the person experiences shaking, anxiety or psychomotor delay, and even constipation in the case of persons who are most severely depressed. In short, depression has a wide range of symptoms. Some depressions are reactions (following a loss, internal conflict), while others are endogenous (they occur for no apparent reason).

In Ms. X's case, she experienced reaction depression with thoughts of suicide. Her depression was more severe prior to the filing of the complaint than after. Even

those around Ms. X noticed a big difference between the two episodes. Her depression was an artificial defensive reaction.

Because of her superior, Ms. X experienced an internal conflict. She already had problems controlling her impulses, which she had reined in by joining the Jehovah's witnesses. Ms. X found herself in a situation where her supervisor was encouraging that part of her that she was trying to control. She was internally conflicted. Ms. X is a fragile individual. If she had been working in a normal environment, it can be assumed that her "chastity belt" (Jehovah's witnesses) would have worked.

Dr. Guérin pointed out that the psychiatrist, Jean Lespérance, who examined Ms. X in September 1995, spoke of a borderline character disorder. This disorder is characterized by low self-esteem, a need for reassurance, a need to please, a preoccupation with other people's opinions, an unstable sex life, and a tendency to experience anxiety.

In addition, Ms. X is emotionally immature. She does not adequately control her impulses and without any framework, she gives in to her impulses more easily. Daughters tend to identify with their mothers. Unfortunately, Ms. X's mother was a poor example; in addition, she committed suicide, which gave Ms. X an example of a way out. In addition, during childhood, Ms. X did not develop sufficient control over her impulses. When her uncles fondled her, her mother had told her that they would not leave with it. Consequently, she learned from her that this was acceptable behaviour.

Furthermore, children, in their "generosity" (term used by the psychiatrist, Dr. Guérin), believe that they are the instigators, that it is up to them to fix things, that they must do what it takes to please. Consequently, they tend to put themselves at risk. This is the case with some women who are repeatedly abused; they have not learned to detect danger. Their need to please means that they respond to the advances. The desire to please comes from feelings of guilt. A child's generosity means that when he is abused, he is convinced that it is his own fault. The same applies to battered women. In Ms. X's case, she was told by her mother that it was all right to be fondled and then later, she learned otherwise. What resulted was an internal conflict. In other words, her sexuality was in conflict with her moral

principles. One of the results of this conflict was that Ms. X confessed publicly, in front of Jehovah's witnesses, a religious group that exercises a moral control that is more humiliating and more primitive than that of other groups.

Filing a complaint against her supervisor was a way for Ms. X to escape. It was only temporary relief. Afterwards, she became even more depressed. In addition, she was very uncomfortable with the idea of testifying. She is a candid, naive person who is aware of her internal conflicts and of her involvement in the situation. Her discomfort at testifying is understandable.

In light of her personal history, Ms. X was unable to say that she was not interested in the necessary tone and with the necessary conviction. She was unable to say a strong, "No". She will always be fragile and she will always have to fight, given her identification with her mother. She will always need an external framework. The complaint that she filed was a good way to end the harassment. However, Ms. X remains easy prey for anyone who wants to take advantage of her.

The suicide incident, in which Ms. X was found with the gun (the matador) was, according to Dr. Guérin, a serious attempt. She was on the brink of committing suicide. She was sufficiently unstable that she could have committed suicide. This was not merely a call for help.

Ms. X's entire behaviour after she gave in to Marcel Morissette's advances arose because of her internal conflict and her feelings of guilt.

Since the events, Ms. X has had an additional tool: she now knows that she can complain. However, she will always be fragile. She did not have the strength to get herself out of the difficult situation she was in, when other women would have had the strength to do so.

What happened between Marcel Morissette and Ms. X was a meeting of two immature people. However, in Dr. Guérin's opinion, the blame should be placed on the supervisor because he took advantage of his position of authority to satisfy his needs.

However, since he did not examine Marcel Morissette, Dr. Guérin is not able to comment on Marcel Morissette's personality.



Under cross-examination, Dr. Guérin testified that he has provided expert opinions on the victim or harasser in some fifteen other cases of sexual harassment. In his opinion, the profile of harassers is as follows. They are narcissistic people, who have a need to control and who are so insecure that they pick on people who are easily controlled. It is a profile similar to that of an incestuous father, who does not have the courage to find a compatible person and therefore turns to his child. Victims have the following profile: a person who has been abused and who is immature. This was a case of two immature people coming together. (At this point, counsel for the employer pointed out that "sexual harassment" is a legal concept and that its definition relates to the action and not to the motivation.)

Dr. Guérin testified that part of Ms. X allegedly did not want what happened to happen. She told Dr. Guérin that another part of her was unable to say no. She admitted that, at some point, she herself initiated the advances. Dr. Guérin pointed out that she had acted on her impulses after suffering from an illness that had gone on for several years. He admitted under cross-examination that it is possible for a person to perceive advances where there are none.

It is Dr. Guérin's opinion that Ms. X had suffered from depression for a relatively long period of time before she consulted him. He also believes that the pressure put on Ms. X by her husband deprived her of a defence mechanism and was one of the main reasons that she found herself at an impasse. If she had been under less pressure from her husband, she would have been able to escape, to leave.

Dr. Guérin is of the opinion that the fact that Marcel Morissette was Ms. X's supervisor could have influenced Ms. X's behaviour, since an immature person will seek to please.

The reason that Ms. X's depression worsened after she filed the complaint was because it was then that the guilt set in bringing on the depression. Her moral conscience, her superego, overcame her natural inclinations. She considered suicide because she felt so badly that she felt that she needed to be punished. She has very strict values and she is intransigent regarding her values; it is all or nothing. Consequently, she holds herself in, she does not forgive herself, she beats herself up. Her depression could be described as "moderate to severe".

Dr. Guérin testified that Ms. X willingly told him her personal history and that, at the time, she was unaware that Dr. Guérin's expertise would be used at this hearing.

Lastly, Ms. X also told Dr. Guérin that her boss kept reminding her that she was not a permanent employee.

#### Testimony of Michèle Guillette

Michèle Guillette is a technician in the medical laboratory at the Lennoxville Research Station. She has worked with researcher Dr. Jacques Matte for 12 years. She regularly goes to the swine facility to assist the employees in collecting samples and carrying out procedures. Everything is done in accordance with the research protocol developed by the researcher and applied by Marcel Morissette and his employees at the swine facility. Michèle Guillette works in a different building than the swine facility. At one point (a period of approximately six months), Michèle Guillette visited the swine facility daily. At other times, she went less frequently.

She compared the atmosphere at the swine facility to that of a sect. The guru was allegedly Marcel Morissette, whom she described as an athletic man who wanted people to be like him by exercising and drinking Cali tea. He wanted everyone to take snow baths and grape cures. His was the only right opinion.

When Marcel Morissette came out of the shower, he shamelessly walked around in his underwear in front of his employees and in front of Michèle Guillette. When she saw him dressed that way, Michèle Guillette tried not to pay any attention to him. She was afraid of how he would react. She "does not have enough fingers" to count the number of times she saw him scantily dressed.

Marcel Morissette is proud of his body. He runs marathons. He wanted his employees to take an adiposity test. He walked around with a small device. Michèle Guillette refused to take the test.

On two occasions when Michèle Guillette was present, he told a story about when he was operated on and how the nurses "lined up to see what was lifting the sheet". The employees laughed nervously. They were embarrassed. Michèle Guillette was embarrassed, but she did not tell Marcel Morissette that.

Marcel Morissette had trouble not having the last word. He had to be right. Once when he was talking with Michèle Guillette, he caught her in a judo hold and told her to try to get out of it.

Michèle Guillette heard him telling jokes. It was more frequent at some times than at others. As for work, he was intransigent. He did not accept people being late or mistakes. When he was away, people had to deal with his son. Michèle Guillette wondered why his son was not required to work on weekends.

Marcel Morissette spoke to Michèle Guillette about Ms. X's complaint. He told her that a few days before filing the complaint, Ms. X had "put her hand in his pants". He told her that Ms. X walked around with her breasts exposed in the swine facility, that she masturbated with a carrot, and that she had masturbated in front of him. He said that he felt like Ms. X's toy.

In Michèle Guillette's opinion, it was obvious that Marcel Morissette was trying to ruin Ms. X's reputation. Michèle Guillette did not think it appropriate for a superior to say such things about an employee. When she heard him talking like that, she told herself that there must be another side to the story.

She remembered that, in the past, Ms. X had raised, at a meeting, the question of sexual harassment by a supervisor.

Under cross-examination, she stated that she had worked with Marcel Morissette for 14 years. She admitted that she had been able to perform her work satisfactorily when she worked with him. She also admitted that even she had told some off-colour jokes. She testified that Ms. X was not comfortable with that type of joke. She admitted that, as a joke, she had once dried her hands on Marcel Morissette's thighs. It is possible that she searched around in Marcel Morissette's pockets to find needles, she did not remember exactly, but if it happened, it was a joke.

It bothered her that Marcel Morissette tried to denigrate Ms. X. She stated that she is not interested in other people's sex lives. However, Marcel Morissette seemed to know everything about Ms. X's sex life.

During re-examination, Michèle Guillette stated that she had not discussed the complaint with Ms. X. She added that Marcel Morissette did not tell her that he had had sexual relations with Ms. X, and he did not say of what Ms. X had accused him.

Michèle Guillette thought that Ms. X was brave to file a complaint. She compared her situation to that of a battered wife.

#### Testimony of Dominique Morissette

Dominique Morissette is Marcel Morissette's son. He has worked at the Lennoxville Research Station since 1983. He has been on sick leave because of a major nervous breakdown since January 1996.

It was Francine Phaneuf who told him in October 1995 that Ms. X had filed an harassment complaint against his father.

Marcel Morissette never explained to his son, Dominique, the nature of his relations with Ms. X.

Dominique Morissette denied that Ms. X told him that she did not want to travel with his father because he had "wandering hands". She did not tell him that she did not want to work with his father any longer.

Dominique Morissette thought it possible that he had insisted that his father tell him what happened between him and Ms. X. His father told him that he would be surprised when everything came out. However, his father did tell him that Ms. X had once masturbated with a carrot and that he had eaten it. He also told him that, on another occasion, Ms. X had walked around with her breasts exposed at the swine facility. He also said that she fantasized about making love in the hayloft of one of the buildings. His father could not explain to him why she would have such ideas.

Dominique Morissette does not believe that his father was involved in this affair. He never told him that he had sexual relations with Ms. X. Dominique Morissette believes that if two people are consenting, what they do is their own business.

Dominique Morissette became ill in January 1996, that is, after his father was suspended. Dominique Morissette was told that he (Dominique) would not be put in charge of the swine facility.

In the past, he had taken over in his father's absences. It was his father who had given him the temporary assignments.

Dominique Morissette has worked under his father since 1989. He was about 23 years old at the time. In 1991, he became a permanent employee. His father was the only other permanent employee. The other employees were casual employees. His father did his performance appraisals.

When his father was suspended, Dominique Morissette expected to replace him but Dr. Jean-Marc Deschênes told him: "I do not want Marcel running things through you." His physician does not know when he will return to the swine facility. Dominique Morissette is to see a counsellor soon.

Dominique Morissette admitted that his father told off-colour jokes (he used the word "dirty"), but in his opinion, they were jokes that could be told on the radio. He felt they were respectful. They did not cause him any problems.

He was not aware that people were complaining about his father undressing in his office rather than in the shower. He never saw him give instructions while in his underwear.

During cross-examination, Dominique Morissette added that jokes were told at the swine facility about Jehovah's witnesses, Newfoundlanders and blacks, and that sometimes the jokes were of a sexual nature. No one complained about it. He had seen Ms. X "react" to some of the jokes. However, the next day, she was the one who told a joke.

According to Dominique Morissette, Francine Phaneuf and France Champagne are honest people. For his part, he does not really need to know what happened. What caused his depression was the fact that he was "tossed aside" after his father's suspension.

Testimony of Dr. Jean-Marc Deschênes

Dr. Jean-Marc Deschênes has been the Director of the Lennoxville Research Station since 1989. His duties include supervising the "pig" and "dairy" program. The "pig" program is run through a team of researchers, a support team, the swine centre (the swine facility) and the extensive crops service (the farm). The foreman of the swine facility, Marcel Morissette, reports to the farm manager, Daniel Savage. The foremen are unionized (Public Service Alliance of Canada). A foreman's job (Marcel Morissette) is to ensure the research protocol is followed and that the herds are properly cared for.

Dr. Deschênes's office and that of the farm manager, Daniel Savage, are located in the headquarters building. At the time of the events, neither Dr. Deschênes nor Daniel Savage went to the swine facility often. Marcel Morissette's supervisors never questioned his technical competency.

It was up to Marcel Morissette to decide if he needed to hire a casual employee. No one dared question him. He enjoyed a very high level of autonomy. He had 43 years of service. He was an influential person. His opinion mattered. He was extremely professional. However, it was difficult to negotiate with him and he did not easily accept the Director's decisions. Marcel Morissette's employees appeared to be the only group at the Research Station where there was complete harmony. Everything seemed to be running smoothly. Dr. Deschênes never received any complaints about Marcel Morissette.

However, it was not easy to enter the swine facility. Access was controlled. Marcel Morissette even told Dr. Deschênes and Daniel Savage to call him before coming to see him.

In 1991, Dr. Deschênes issued a directive (Exhibit E-18) outlining appropriate dress for employees during summer. His action was in response to complaints he had received from people working in the central building. They had complained about the scanty clothing worn by Marcel Morissette and the fact that, during the previous summer, two female students had appeared in bikinis.

Dr. Deschênes learned of Ms. X's problems in a phone call from her on a Saturday evening. He met with her in his office on Sunday morning. He listened to her for two hours. She cried a lot. Dr. Deschênes understood that Marcel Morissette had

acted inappropriately. He told Ms. X that he would not take any action unless she filed a written complaint. A few days later, he received a written complaint (Exhibit E-4).

In the meantime, Dr. Deschênes had informed Marcel Morissette that a complaint was to be filed against him. Marcel Morissette told him that Ms. X had problems and that she needed help.

After the complaint was filed, it was investigated by *Le Groupe J.L.* Following the submission of the investigation report (Exhibit E-3), Dr. Deschênes consulted with the Department's legal services on several occasions and with the Human Resources Division. It was concluded that the allegations were supported by the evidence and that they warranted Marcel Morissette's dismissal.

Dr. Deschênes felt that it was unacceptable for sexual relations to have taken place between a casual employee and her boss at the workplace. He pointed out that Marcel Morissette was the employer in the eyes of his employees.

He believes that Marcel Morissette's employees were living in a cocoon. Marcel Morissette controlled his team and, in one sense, protected them. People outside the cocoon felt powerless. Marcel Morissette's employees believed it was in their best interests to protect him. Dr. Deschênes was aware that the testimony of some people at this hearing was different than the testimony they gave to the investigator.

Dr. Deschênes deplored the fact that no one had spoken up sooner.

It is unthinkable that Marcel Morissette might return to the swine facility. Since his departure, the employees have been more open, happier. They are developing their skills. However, it was not easy to replace Marcel Morissette.

Dr. Deschênes noted that, despite the fact that he had asked Marcel Morissette to keep the matter confidential, the latter had spoken about it to Ms. X's colleagues, even going so far as to tell them what he claimed were her sexual fantasies.

Following Marcel Morissette's suspension, Dr. Deschênes intention had not been to exclude Marcel Morissette's son, but rather to have him share the work on an acting basis with his colleagues.

Under cross-examination, Dr. Deschênes added that when Ms. X spoke to him about her problems with Marcel Morissette, she told him that she did not know how to get out of this impasse. In her opinion, the only solution was to quit her job but she could not do that because her husband was pressuring her.

During the days following the filing of the complaint, Dr. Deschênes reassured Ms. X and told her that she would not lose her job.

Ms. X filed her written complaint (Exhibit E-4) about ten days after her oral complaint.

An harassment workshop was held in November 1995. However, Dr. Deschênes was unable to give the day or the manner in which the "Policy on Harassment in the Workplace" was distributed (Exhibit E-16: December 15, 1994). He pointed out that Marcel Morissette was a unionized employee and that he had a copy of the collective agreement. Indeed, he was responsible for applying the collective agreement.

It was the investigators hired by Dr. Deschênes, *Le Groupe J.L.*, who obtained Marcel Morissette's version of the facts.

Dr. Deschênes stated that he did not encourage Marcel Morissette to resign, but rather told him, at some point (not specified), that "given the information I have, we are considering dismissal. If you can think of any other scenario, I would be prepared to discuss it."

#### Testimony of Claude Mayrand

Claude Mayrand began working at the swine facility as a labourer in 1991 after completing his animal health degree. He had been at school with his fellow workers France Champagne (permanent employee) and Francine Phaneuf (casual employee). Dominique Morissette (GL-MAN-07; permanent employee) and Ms. X (GL-MAN-06: casual employee) were his other two fellow workers at the time of the events. At the time of his arrival, Dominique Morissette was already there. Dominique Morissette had a regular shift (five days of work; two days of rest) unlike the rest of his fellow workers. He assumed his father's duties on an acting basis when the latter was absent.



There was a "cheerful" atmosphere at the swine facility; many jokes were told of all types. The jokes included ones of a sexist nature. France Champagne and Ms. X did not appreciate them. Ms. X told Marcel Morissette this. He stopped telling them for a short period of time but then he started again. Claude Mayrand was less sensitive to the jokes told.

The employees shared two showers. Marcel and Dominique Morissette and Ms. X used the same shower. Normally, Marcel Morissette undressed in his office. You could see his undressing from the kitchen. One day, France Champagne told him that she did not like it. Marcel Morissette found that funny and he continued to undress in his office.

One day, after an operation, he told his employees that the nurses "took turns looking under the sheet at his erect penis". He talked about it at the table. He mentioned it several times. His son, Dominique, found it funny. No one complained.

Claude Mayrand worked with Ms. X from the time of his arrival in 1991. Both were casual employees and they shared a similar sense of belonging because of their uncertain status.

Ms. X was a person of changing moods. In 1995, before she filed her complaint, her moods stabilized. She was taking medication and her personality became more stable.

Marcel Morissette was her confidant. At least that is what Marcel Morissette told Claude Mayrand. Ms. X did not confide much in Claude Mayrand except for the Saturday before she filed the complaint against Marcel Morissette.

On that day, while they were working together, Ms. X told Claude Morissette that she was at the end of her rope and then she burst into tears. She said she was fed up, that Marcel Morissette was harassing her and that she was unable to tell him to stop. She said that she did not want to work any more, that she had "gone all the way" with Marcel Morissette, and that she did not want to any more. She added that the harassment had been going on since Marcel Morissette had hired her. She explained that, in the past, she had fought against the harassment but that since she had been taking her medication, "she was weak and had given in".

Claude Mayrand was not particularly surprised because France Champagne had told him that Ms. X was complaining about being harassed by Marcel Morissette.

During this conversation, Claude Mayrand told Ms. X it was not normal to quit work for this reason. He suggested that she speak to the farm manager, Daniel Savage, or to the Director, Dr. Deschênes. Ms. X said that she would do that and asked Claude Mayrand not to tell anyone what she had just told him.

Previously, during an information session, Ms. X's questions had sent a chill through the room (incident in which she alluded to sexual harassment by a supervisor).

Marcel Morissette had helped Claude Mayrand get hired when he had applied for a job. When he was the foreman, and before Claude Mayrand became a permanent employee, Marcel Morissette told his employees that he "would protect them from the outside".

After Ms. X filed her complaint, Marcel Morissette asked Claude Mayrand if he knew anything about it. Claude Mayrand said nothing and did not try to reassure Marcel Morissette. Marcel Morissette said that he thought it was a "trick" to get him to leave. He told Claude Mayrand that Ms. X had fantasies. He told him one about a carrot. He claimed that Ms. X "liked hair on a person's stomach". He did not say anything about his own actions.

During breaks, when everyone was sitting around the table, Marcel Morissette tried to mobilize his employees. He wanted them to take action against Ms. X's complaint, to convince them to write letters. He tried to get the female employees to write a letter "discrediting" Ms. X's complaint.

At some point, Claude Mayrand realized that Dominique, Marcel Morissette's son, was aware of the statements that witnesses had made to the investigators. Indeed, Dominique repeated to Claude Mayrand the very words that he, Claude, had said to the investigator. Dominique Morissette was therefore aware that one of the witnesses described his father as "an old macho man of the fifties". He also knew that the investigator had been contacted by France Champagne who wanted to know if she

was forced to write (or sign) a letter that Marcel Morissette wanted to file in response to Ms. X's complaint.

Claude Mayrand was uneasy, particularly because Marcel Morissette told him that he would obtain a copy of all of the testimony given to the investigator and that he would sue anyone who testified against him.

Daily in October, November and December 1995, Marcel Morissette spoke about Ms. X's complaint to his employees. He tried to make it the group's business. Arriving in the morning, the employees knew that this would be the topic of conversation for the day.

During this time, Marcel Morissette's son was "torn". When his father was suspended, he took it very hard that he was not asked to replace him and to become the acting foreman.

Claude Mayrand witnessed a scene in which Dominique Morissette asked his father if "he was innocent ". The latter responded that "If two adults are consenting, why not?" Dominique Morissette then became angry and "kicked a bag of feed " saying, "I was ready to lose my job for you". This scene took place before Marcel Morissette was suspended.

After her complaint, Ms. X worked for a while in the library of the Research Station and then in the cow barn.

A few days before Ms. X's return to the swine facility, Claude Mayrand saw Ms. X under the following circumstances.

At 11:00 p.m., he received a telephone call from a female biology student who was to collect samples at the swine facility. She said that there was a white car in the yard of the swine facility; she was worried and she asked Claude Mayrand to come to work.

When he arrived, he checked all the buildings. He noticed Ms. X in a red trailer. She identified herself. She was crying. She told him that she did not think Francine Phaneuf would ever accept her coming back to work at the swine facility. She was also

concerned because people knew what had happened. Claude Mayrand tried to comfort her.

In the meantime, Ms. X's husband arrived. Ms. X spoke with him and then told Claude Mayrand that she had left something in the trailer. The "something" was the "matador", the rifle used in slaughtering. Claude Mayrand found the matador; it was loaded (one bullet) and beside it was a box of bullets. In order to get the matador, Ms. X had forced a door and broken a hinge.

Ms. X's husband told Claude Mayrand that his wife was depressed and that she was seeing a psychologist.

Claude Mayrand pointed out that no one was supposed to be at the swine facility that night and it was purely chance that someone was there to collect samples. He could not say whether Ms. X would have committed suicide if she had not been discovered in time. One thing of which he was certain was that she seemed to him to be in a state of shock.

Claude Mayrand had seen Marcel Morissette pat Ms. X on the buttocks. France Champagne told him that Marcel Morissette had done the same thing to her. France Champagne told Claude Mayrand that Ms. X had complained to her that Marcel Morissette patted her on the buttocks.

Under cross-examination, Claude Mayrand added that he too had told sex-related jokes. It did not bother him that jokes of this nature were told. Ms. X said that she did not want to listen to them. France Champagne also had some reservations.

Ms. X did leave her underwear in the shower.

Claude Mayrand "quite often" saw Marcel Morissette changing in his office and then walking in his underwear to the shower. In fact, it happened almost all the time according to Claude Mayrand. People sitting at the table in the kitchen could see him.

In the months preceding the filing of the complaint, Claude Mayrand often saw Ms. X and Marcel Morissette working together.

Claude Mayrand denied ever walking around in his underwear at work.

When Ms. X's husband arrived at the swine facility on the night of the incident with the matador, he told Claude Mayrand that his wife had left the house saying that she was going somewhere. Her husband suspected that she was going to commit suicide at the swine facility because, previously, she had told him that she would kill herself with the matador at the swine facility. That is why he had hurried over. Claude Mayrand thought he was very nervous.

Claude Mayrand knew that Ms. X's mother had committed suicide because Marcel Morissette had told him.

Following the matador incident, Claude Mayrand was nervous because he was worried that Ms. X might try to use the matador again.

Since Marcel Morissette's departure, the employees have been more involved at work. People are worried about Marcel Morissette coming back and that the atmosphere that existed at the time of the complaint will return. It is an "open system" now, rather than a "closed system". When Marcel Morissette was there, Dominique Morissette was the only one who replaced Marcel Morissette when he was away. Now everyone has a chance to acquire the experience and to be more independent.

This concludes the employer's evidence.

### Grievor's Evidence

#### Testimony of Dr. Ghislain Pelletier

Until his retirement in March 1997, Dr. Ghislain Pelletier was a researcher at the Lennoxville Research Station. He is a doctor of biochemistry and a member of the Order of Agronomists. He is the author of 260 publications and was, during his career, an associate professor at three universities.

In 1980, he began working in collaboration with Marcel Morissette on the implementation of a research project involving pigs. Marcel Morissette provided the operational support.

He had only praise for the quality of work performed by Marcel Morissette. He described him as a rigorous individual with an excellent sense of the organization and who, when he was involved in a project, he considered it his own. He knew how to monitor the execution of the work to ensure the reliability of the results. According to Dr. Pelletier, all of the researchers, without exception, appreciated the quality of his work. Dr. Pelletier described Marcel Morissette as a tenacious individual with perseverance, discipline and dedication.

Dr. Pelletier's office was located in the main building. He visited the swine facility two mornings a week when slaughtering was taking place. From 1980 to 1984, he spent about twenty hours there. After that, it was the technicians who went to the swine facility.

Dr. Pelletier indicated that he did not have any problems entering the swine facility. He did not see Marcel Morissette behave in an unacceptable manner toward women. According to Dr. Pelletier, about twenty couples met each other while working there over the years.

Dr. Pelletier did not speak to Ms. X often. He had noticed that she did not attend birthday celebrations. He testified that he thought it was because she was a Jehovah's witness. One day when they met near the library, Ms. X told him that she had filed a complaint against Marcel Morissette.

On one occasion, Ms. X wore what appeared to be "a red evening dress". Dr. Pelletier commented that "someone who was being harassed would not walk around like that".

Dr. Pelletier was responsible for hiring Marcel Morissette's son, Dominique. Over the years, Dr. Pelletier hired all of Marcel Morissette's sons. According to him, Marcel Morissette was as demanding of his sons as he was of the other employees.

Dr. Pelletier was not aware of what had happened between Ms. X and Marcel Morissette. In his opinion, regardless of the nature of their relations, it was fine if they were both consenting adults. For his part, he had never gone out with any of the women technicians on his team because, as the supervisor, it would have put him in a

difficult situation and he might have been tempted to give the technician preferential treatment.

#### Testimony of Normande Ouellet

Normande Ouellet is a biochemistry technician at the Lennoxville Research Station. She works under the supervision of researcher Candido Pomar. In 1993 and 1995, she worked in collaboration with Marcel Morissette and his team on two projects. During the first project, she went to the swine facility four mornings a week. She worked with Marcel Morissette and his employees inserting cannulae in the pigs and collecting the digestive fluids to study the digestibility of proteins. The second project lasted six months. For a period of eight weeks, Normande Ouellet visited the swine facility every Monday morning. She did not see anything unusual and she did not notice that Marcel Morissette had a "particular attitude" toward women.

Marcel Morissette behaved properly toward her. He had touched her on the arm but it was not inappropriate. Marcel Morissette was a caring man.

Normande Ouellet felt free to drink coffee. Marcel Morissette never spoke to her about this. In winter, he worked in Bermuda shorts; in the summer, he wore shorter *Adidas* shorts. Normande Ouellet heard sex-related jokes told when she was at the swine facility. She remembered telling one herself. Marcel Morissette told them as did the other employees.

She could not testify concerning the complaint filed by Ms. X. She pointed out that she could not know what happened in the building housing the swine facility because she was not there the whole day.

#### Testimony of Dr. Jacques Matte

Dr. Jacques Matte is a researcher in pig nutrition at the Lennoxville Research Station. He holds a doctorate in animal science. He worked with Marcel Morissette on a daily basis during the past five years. He talked about Marcel Morissette's competency (at this point, counsel for the employer stated that the employer recognizes Marcel Morissette's competency).

Dr. Matte did not see Marcel Morissette make any inappropriate gestures toward Ms. X. Generally, he saw Marcel Morissette when the latter was alone. Dr. Matte did not stay at the swine facility long on his trips there.

There was a large disparity between Marcel Morissette and his employees: Marcel Morissette had 43 years of experience at the swine facility, while his employees were 25 years old or younger and, consequently, had little experience.

Marcel Morissette “did well in the joke-telling competition”. Marcel Morissette’s jokes did not make him uncomfortable nor, moreover, were they embarrassing. However, he could understand how jokes about women, told in front of women, could have been perceived as sexual harassment. Two female researchers, Suzanne Robert and Chantal Farmer, had told him that they were uncomfortable when Marcel Morissette hugged them on their birthdays.

All of the researchers were worried about losing Marcel Morissette’s expertise when he retired. Dr. Matte never heard the administrators express a desire for Marcel Morissette to leave.

Dr. Matte was unaware of the details of Ms. X’s complaint and could not testify concerning the elements of that complaint. However, he did feel that it took courage for Ms. X to file the complaint, because she “was taking on a big fish” and “fighting a big war by herself”.

Only once in 10 years did Dr. Matte see Marcel Morissette come out of his office and go to the shower wearing only his underwear. Dr. Matte did not receive any comments or complaints from the students who worked with Marcel Morissette.

#### Testimony of André Bouchard

André Bouchard has worked at the Lennoxville Research Station for 27 years. He is a laboratory technician. He works under the direction of researcher Marie-France Parent. Before that, he worked for Candido Pomar and Serge Pommier. He is a member of the union.

He did work with Marcel Morissette but not very often. He spent only a small amount of time at the swine facility; for a period of seven months, during the



implementation of a project, he was present for the slaughtering every Tuesday. He was accompanied by Normande Ouellet.

Some of the female technicians (Louise Thibault, Michèle Guillette) did not like Marcel Morissette for reasons that André Bouchard thought were related to the performance of the work. Before Marcel Morissette's departure, André Bouchard received comments from some female technicians about the fact that Marcel Morissette's attire made them uncomfortable. André Bouchard stated that Marcel Morissette's clothing was more "visible" than that of other employees.

André Bouchard observed Marcel Morissette's favouritism toward his son, Dominique Morissette. He noted that Marcel Morissette indirectly put down France Champagne and Claude Mayrand. Initially, they did not notice. They worked weekends while Dominique Morissette was not required to. They were not given an opportunity to replace Marcel Morissette when he was absent and Marcel Morissette did not show them what they needed to know so that they could.

Marcel Morissette had a strong personality. He had a hold on his employees but, according to André Bouchard, this was not necessarily a bad thing.

He encouraged people to adopt his life style. Drinking Cali tea and practising judo, for example. He was quite forceful in promoting his own habits. Some employees complained to André Bouchard about it. One in particular was Isabelle Sabourin, a student of between 20 and 25 years of age. She did not appreciate Marcel Morissette's judo holds and she was uncomfortable with Marcel Morissette's repeated suggestions that she take the grape cure.

The union representative, Alain Vachon, told André Bouchard that the union did not want to represent Marcel Morissette in his grievance because the union believed that the investigation report was quite conclusive. The union was only prepared to represent him with respect to the sanction.

Marcel Morissette tried to talk to him about Ms. X's complaint but he refused to hear the details.

According to André Bouchard, it was not easy for a casual employee to speak to Marcel Morissette. Even permanent employees appeared to be afraid of him.

Testimony of Julie Duquette

Julie Duquette is an agronomist and is employed by a group of agricultural producers, *Le Club Agro-Environnemental de l'Estrie*. She is 28 years old.

During the period from the summer of 1993 to September 1995, she worked on her masters in pig nutrition and reproduction and as a research assistant at the Lennoxville Research Station. Her office was in the administration building. She worked in the laboratory and in her office. Most of her work took place in these two locations. As part of her work, she was required to visit the swine facility to obtain the results of the blood samples, and sometimes to take samples herself. She attended half of the coverings of the 40 sows that were part of a project. From spring 1995 to her departure in September 1995, she did not go to the swine facility often because the animal phase of the project had been completed. When she was at the swine facility, she worked mainly with Dominique, Marcel Morissette's son. For his part, Marcel Morissette showed her how to take the blood samples, to constrain the animals, to milk the sows.

Her impressions of the swine facility, the employees and Marcel Morissette are as follows. The employees seemed happy, Marcel Morissette guided his team well, there was nothing unusual about Marcel Morissette's clothing, and the jokes he told were no more sexist or more of a sexual nature "than anywhere else".

The female technicians, Michèle Guillette and Louise Thibault, told her that it was a good idea to be on Marcel Morissette's good side so that her research projects would go well. She also knew that some of the female laboratory technicians, including Louise Thibault, did not like going to the swine facility. She did not know the reason why, except that they did not appreciate some of the jokes about women. Even Dr. Chantal Farmer commented on these jokes.

On one or two occasions, she saw Marcel Morissette walk in his underwear from his office to the shower. She described them as "shorts".

Julie Duquette did not have any particular contact with Ms. X. She had a memory of her being a hard-working, reserved, good natured person, who ate alone and who did not like physical contact, not even a hand on her arm.

Testimony of Marie-France Palin

Marie-France Palin is a researcher in molecular genetics in the swine section at the Lennoxville Research Station. During the period from July 1994 to December 1995, she worked in the main building housing the laboratories. She had only sporadic contact with the employees at the swine facility. As part of an initial project, she visited the swine facility three or four times, and during a second project, she visited several times for the slaughtering of 36 pigs (more than one pig was slaughtered at a time), and during a third project, she went once to be present for a slaughtering. She did not meet Marcel Morissette except on these occasions and she was never alone with him. All that she could say was that she found the swine facility team to be a dynamic one, that the people seemed to get along well and that they told jokes.

Testimony of Marcel Morissette

Here is a summary of the testimony of Marcel Morissette.

Marcel Morissette is 63 years old. He started working as a student at the Research Centre on May 1, 1953. In 1955, he obtained a permanent position in the swine section, the “swine facility”. He became the foreman at the age of 19 years. He remained as foreman until his dismissal in 1996. In 1955, the swine facility had three employees including Marcel Morissette. Over the years, the swine facility expanded. There was intensive growth during the period from 1972 to 1974. Research expanded. In 1974, Marcel Morissette was on sick leave for eight months. In 1980, and for the next five years, Marcel Morissette divided his time between the swine facility and the care of 40 Romanov sheep that were in quarantine. In 1983, Marcel Morissette was seriously injured while transporting hogs. He was absent from work from February to November 1983.

In 1988, the swine facility gained prominence with the discovery of the growth hormone. In 1989, researcher Jacques Matte discovered a new technique for taking blood samples. Marcel Morissette taught it to his employees, namely, Dominique Morissette, Marielle Vanier, Idier Dubois (who was later replaced by Irène Bergeron), as well as the laboratory technicians. The same year, a new farm manager was hired. He dealt mainly with the cattle section.

In 1991, the swine facility employees were involved in building 128 enclosures in Building 10. In 1992, they renovated Building 68.

Beginning in 1991, there was a new team. Marielle Vanier and Irène Bergeron left. Claude Mayrand and France Champagne arrived. They were students. They became permanent employees a few years later. Francine Phaneuf and Ms. X began work at the end of summer 1991 (Ms. X had worked at the swine facility previously in 1990 as a casual employee) and are still casual employees.

Marcel Morissette prepared the examination questions when hiring employees. He was part of the selection board for competitions held to fill positions in the swine facility.

He submitted pictures of his employees (Exhibits A-3 to A-10) and a diagram of the swine facility (Exhibit A-2). He pointed out the cramped quarters of the kitchen, the showers, a small laboratory and his office.

He denied deliberately placing himself in the kitchen so that people had to brush against him or so that he had to touch someone to move around.

As for the showers, he explained that it was he who suggested a second shower, who consulted with his team before having the plan approved by administration and who gave up part of his office so that it could be installed. Initially, he planned to assign one shower to the women and the other to the men. However, he did not think it right to install the women's shower next to his office, "because it would have been easy to make a small hole and cover it with a painting and to watch people . . .". In short, he felt the women would be more comfortable if they were farther away. In the end, the men and women shared the showers because it was not practical for three men or three women to have to wait to use one shower when the other was free. The result was that France Champagne, Francine Phaneuf and Claude Mayrand shared one shower and Marcel Morissette, his son Dominique and Ms. X shared the other. No one complained.

During cross-examination, Marcel Morissette admitted that France Champagne had spoken to him about wearing his underwear to the shower. He explained that France Champagne came from a strict family. He told her: "What is the difference

between wearing this and wearing a bathing suit?” He stated that he “adapted” to France Champagne’s request. However, he felt that if people had seen him in his underwear, it was not very often. It was “an accident” if he went to the shower wearing only his underwear. Moreover, he himself saw France Champagne wearing “a towel around her bust” and he “did not make a case of it”. He was also of the opinion that the different working hours meant that people would not have seen him going to the shower very often.

Marcel Morissette only had to take two steps to get from his office to the shower. When his representative asked him what he wore to get there, he did not reply clearly. Instead, he spoke about his attire in general and explained that he wore shorts under his smock (“chiienne” was the term used by Marcel Morissette and the employees to describe their work outfit). He was aware of the policy prohibiting the wearing of short shorts because he developed it with Jean-Paul Laroche in 1991.

As for access to the swine facility, Marcel Morissette confirmed that representatives of administration seldom came there. Normally, it was he who went to the administration building almost every day.

Below is Marcel Morissette’s version of Ms. X’s harassment complaint.

First of all, according to Marcel Morissette, it was a complete surprise to learn of the complaint, because he had never harassed anyone. He has “too much respect for women” to act that way. He feels that he is a victim of a plot to get him to leave his job at the swine facility. This belief is based on the fact that, in 1993, the Director had spoken to him about pre-retirement and that, in 1995, the day after a pre-retirement session he had attended on June 12, 1995, he was asked to sign a “consulting document” related to retirement.

Then, in mid-June 1995, the complainant “suddenly became very intimate” toward him. It was late afternoon, when he was coming out of his shower, that she showed him her see-through underwear. Marcel Morissette added: “I was surprised . . . She “French-kissed me” . . . she sat on the edge of toilet and performed fellatio . . . I was very embarrassed because I did not like that sort of thing.” At this point, Marcel Morissette said that he wanted to add a side comment. Here it is.

Prior to this event, in about mid-March or early April 1995, when he was in the kitchen of the swine facility, Ms. X allegedly threw herself on him saying: “Stop me from killing myself.” “You cannot imagine the effect this had on me”, Marcel Morissette said. Moreover, Ms. X had both of her hands on her breasts (he demonstrated the gesture), which struck Marcel Morissette because he found such gestures strange given her talk of suicide. According to Marcel Morissette’s version, he made every effort to talk to Ms. X and to try to calm her down. He told her: “You need to see a psychiatrist. You can’t do such a thing [referring to suicide]. Remember your mother’s suicide and the shame that you felt.” Ms. X did not tell him why she was so upset. She said: “I have made two calls to Suicide Intervention. I did not get any answer.”

Under cross-examination, Marcel Morissette added that, at the time of this incident, he asked her how she would commit suicide. She told him “with the matador”. A short time later, she took the matador and put it to her head to show him how she would do it.

A few days later, Ms. X went to see a psychiatrist. On her return she told Marcel Morissette that “he was sicker than I am.” She then went to see a second psychiatrist and beginning in May 1995, she seemed “calmer”.

Marcel Morissette said that he did not think about Ms. X’s threat of suicide for long in March 1995. He thought that “throwing yourself with your arms crossed against someone is not a normal gesture for someone who is desperate”. Moreover, he claimed in that in June, Ms. X reproached him for not making love to her in March. He concluded from this that she had not intended to kill herself.

Marcel Morissette ended these side comments by explaining that, in 1993, Ms. X had told him about her mother’s suicide in 1984-1985. He distinctly remembered the day. They were going to the Fortin slaughter house in St. Blaise. At noon, they had eaten in a restaurant with Ms. X’s sister who lived not far from there and Ms. X had wanted to introduce him to her. On their return, Ms. X told him her family history, including her mother’s suicide. She had added: “If things do not go my way, I will do what she did.” Marcel Morissette stated that, based on this conversation, he concluded that Ms. X had a tendency toward suicide. He therefore conducted himself, and

encouraged his team to conduct itself so as to avoid any conflict with her. The other members of the team even accused him of taking Ms. X's side. For his part, he felt that eventually she would try to kill herself. He explained that if something had happened and he had not stepped in at the right moment, he would have felt guilty. He never gave Ms. X any special treatment concerning her working conditions, but he did step in if there was a problem between her and her fellow workers because he was always afraid that she would commit suicide.

During cross-examination, Marcel Morissette stated that, when Ms. X told him about her mother's suicide and that she would do the same thing if things were not going well, he did not feel that this was anything serious and he did not feel that she wanted to kill herself. He explained that he did not say anything because he did not want her to react badly given her comments about possibly killing herself.

Marcel Morissette recalled another incident that happened before 1995. It was in late March 1993. In the late afternoon, Ms. X allegedly pulled her dress up to her bra to show him her pink underwear saying: "When I have my menstrual period, I get depressed. I wear colourful clothes; it helps me a lot." Marcel Morissette lifted up her bra to look at her left breast. Ms. X smiled (he stated that Ms. X did not encourage him to touch it). Marcel Morissette said that this was the first time this happened. A few days later, Ms. X told Marcel Morissette that what she had done was wrong and that was where things stayed.

At this point, Marcel Morissette went back to the 1985-1994 period. He met Ms. X in 1985. They shook hands. He denied giving her an impromptu kiss. He did not see her again until 1991. He pointed out that, in 1991, despite her status as a casual employee, Ms. X was, for all practical purposes, a full-time employee given the research needs at the time.

He was not a member of the selection board that hired Ms. X. He did not work closely with her. His right hand was Marielle Vanier and at the time (in 1991), Ms. X "hung out" with Marielle Vanier and Irène Bergeron, while he, Marcel Morissette, hung around with his son, Dominique.

It was Marcel Morissette who trained the new team in 1991, namely, France Champagne, Francine Phaneuf, Claude Mayrand, Ms. X and Dominique Morissette. According to him, his team was "proud" of him and, he added: "We stuck together".

He worked with Ms. X between 1991 and 1993. He described her as a good worker. She talked a lot about her religion. Nothing happened between them. He did "not find her any more to his liking than any other woman" and "until 1995", he did not make any comments to her that she could have interpreted as advances.

Knowing that she was a Jehovah's witness, he would not have dared "to abuse the situation by telling prejudicial jokes". Under cross-examination, he stated that not many jokes of a sexual nature were told at the swine facility. There was nothing "daring, dirty", because "he would not have allowed anyone to tell offensive stories". If the employees testified differently, it was because they had to do so when the Director of the Research Station was in the room. According to Marcel Morissette, they testified differently before the investigator. He denied telling his employees repeatedly that "We stick together".

When his representative asked him if he linked animals and women in his jokes, he answered that the sexuality of animals was present in their daily work, that among other tasks, they had to detect the oestrus period and that that is done with a neutered boar. To explain swine sexuality to his employees, Marcel Morissette told them: "Simply, a man cannot take a woman if she does not want him to." With pigs, Marcel Morissette explained, "it is the same thing: pigs are quite discriminating".

He did not feel that prior to 1995, he arranged to work with Ms. X and to be alone with her. The whole group of employees worked together. He might have worked with her alone, but very rarely. In 1995, he worked alone with her on Tuesdays, after the slaughtering of the pigs. It was their job to empty the intestines. Four or five times, in October 1995, he found himself alone with Ms. X in the late afternoon.

Other than the incident in March 1993 that was described earlier (Ms. X showed him her underwear), only one other incident apparently occurred before 1995. Marcel Morissette stated that it happened in fall 1994, in September or October.



On that day, Marcel Morissette was working with Ms. X cleaning the animal trailer. At some point, Ms. X turned to him and allegedly asked him why he had an erection in his pants. Marcel Morissette apparently replied: "You should know, you are married." She allegedly then touched him saying: "You have a big penis".

Under cross-examination, Marcel Morissette added that Ms. X touched him and they kissed. He felt that this was an attack by Ms. X. He agreed to kiss her because he did not want to "frustrate" her because he remembered her comments about maybe killing herself.

Besides, he added, he worked with young people and he was used to being attacked by women.

Marcel Morissette felt that, beginning in 1993, Ms. X was manipulating him. He felt trapped given Ms. X's comments about her possible suicide and he felt that he had to respond to her advances, but he did not seek advice because the incidents were not very frequent and Ms. X apologized after the incident at the trailer.

Other than the trailer incident, nothing else happened in 1994. Marcel Morissette testified that the only other times that he might have touched Ms. X was when he was teaching her judo holds. Otherwise, he would not have dared to touch Ms. X because "everyone knew that she did not like to be touched".

Before becoming involved in the relationship in July 1995 and the subsequent months, Marcel Morissette testified that his son, Dominique, told him in June 1995 that Ms. X had said that she did not want to travel with Marcel Morissette "because he had wandering hands". Marcel Morissette was surprised to hear that, but he did not ask Ms. X to explain her comments. All that he did know was that she had refused to attend a conference in May and he thought that her comment to his son Dominique was related to that conference.

He confirmed that, like the rest of the employees, he noticed changes in Ms. X's behaviour and personality beginning in May 1995 and that she was pleasanter to work with.

Marcel Morissette testified that, in mid-June, Ms. X allegedly "jumped" on him, "French kissed" him and began performing fellatio, that he could not get out of her

grip and that after ejaculating, he allegedly left quickly. He said that he had no defence against Ms. X because he was afraid that she would kill herself.

Below is a summary of Marcel Morissette's version of events during July 1995 and thereafter.

On July 3, 1995, Ms. X came to ask him if she could accompany him on his trip to Beauce. According to Marcel Morissette, she insisted. Marcel Morissette was apparently uncomfortable about it. However, he felt it was impossible to refuse her request and therefore, he told her that she could come with him. He had a feeling that something would happen, but, accordingly to him, Ms. X controlled him. He constantly thought about what she had said before that she "would kill herself if things did not go her way".

Consequently, on July 6, 1995, he picked Ms. X up at her house early in the morning and they took the highway toward St. Edouard de Lotbinière where they were suppose to pick out some pigs. Once they were in the truck, Ms. X allegedly said to him: "Did you bring a blanket and condoms?" Marcel Morissette then understood her intentions. He did not try to dissuade her because he remembered her comment about killing herself. Along the route, she allegedly unzipped his fly to hold his penis, but he told her to stop because he was driving the truck.

When they arrived at the breeder's, she apparently put on her work outfit and then left for some time with the vendor in his 4 x 4, which Marcel Morissette thought was rather "special" since the man was a stranger. Once the pigs had been chosen, and before getting back on the road to return home, Ms. X allegedly asked him if they could buy some condoms. Marcel Morissette answered that it was a small place and that there was no drug store. Ms. X did not insist.

On the way home, Ms. X allegedly asked to make love in the trailer. Marcel Morissette apparently refused saying that the trailer was dirty. Moreover, because he did not have any condoms, he was not interested and did not want to put himself in a compromising position. However, he did not tell her outright that he was not interested. At that point, he did not "do anything" because, he explained, he did not want to provoke her and he saw that "her need was great". In addition, he was driving. A little while later, on the way home, at Ms. X's insistence, they stopped the truck in a

small stand of pine trees. He testified that he might have been the one to decide to stop in the woods, because of "Ms. X's insistence". Ms. X then allegedly took the seat cover from the truck and carried it into the woods. She then performed fellatio on Marcel Morissette. He allowed her to do this even though he did not like it because he was extremely excited. However, he did not perform cunnilingus on Ms. X because "she did not like his little goatee". He kissed her and caressed her breasts. The whole interlude lasted about 15 minutes. According to Marcel Morissette, Ms. X was kind and seemed happy, but he felt "small and powerless against this person, always for the same reason, the thought that she might kill herself". He added: "This thought was always in my mind but I never said anything about it to her". Marcel Morissette also described what happened, according to him, in the truck afterwards. (It is not necessary for me to repeat this additional allegation which is along the same lines as what I have just recounted.) He denied ever asking Ms. X to have sexual relations with him at any time during this trip or at any other time. Further, he denied that, after the trip, Ms. X told him: "This is not normal, it is not Christian." The following day was Marcel Morissette's last day before leaving on vacation. He remembers it because, on that day, the employees were playing around and throwing water. The young people had a habit of sometimes getting people wet even if they did not want to get wet. Ms. X threw a bucket of water on Marcel Morissette. He was offended because "I detest it when people do not respect others".

On that day, Ms. X allegedly told him that while he was on holidays, "When I have finished my period, I will come to see you at your club". According to him, he was "not looking forward to these encounters and fortunately she did not show up at the judo club".

Marcel Morissette recounted another incident that allegedly occurred during his vacation on July 30.

While he was out for his daily jog (13 kilometres) and was jogging along one of the roads at the Research Station, Ms. X came to meet him and allegedly said to him: "I want you to make love to me, I have condoms". Marcel Morissette said that he felt like he was being "stalked". However, he complied with her request and went with Ms. X to the small laboratory. He explained that, because he had never used a condom, it was Ms. X who tried to put it on him. "The incident was a fiasco", he testified. He then gave

explicit details of what Ms. X allegedly did and the type of lover she was, according to him. Under cross-examination, he added that it had not occurred to him to make up an excuse to avoid Ms. X's advances because he was afraid of a negative reaction from her.

Marcel Morissette returned to work on September 5. The same day, Ms. X allegedly said: "If you take another trip, I want to come with you". Marcel Morissette apparently felt "exasperated by being unable to do anything in light of her insistence", but it did not occur to him to seek advice in order to resolve the situation. Again, he was worried that Ms. X would commit suicide. He apparently felt "gagged, tied up". The situation affected him. (At this point, he wiped away a tear.) Despite this, he told Ms. X, in response to her request, that there would be no more trips, that he would be going alone. He did go alone on the next trip and Ms. X did not react.

Between September 5 and 19, Marcel Morissette was sitting on several committees and he did not work with Ms. X.

On September 19, there was a seminar on swine at Bishop's University in Lennoxville and Ms. X attended it. After the seminar, she climbed into Marcel Morissette's vehicle to return to the Research Station. She allegedly told him that she wanted to make love. Marcel Morissette agreed. They went to the laboratory in Building 7. They had "almost complete" sexual relations, according to Marcel Morissette. He provided other details, which it is not necessary to repeat. (On this occasion, Ms. X apparently shared with Marcel Morissette certain details, which he repeated, about the early part of her marriage.) Marcel Morissette then went to a reception being held after the seminar.

October 3 was the last time that Marcel Morissette had sexual relations with Ms. X. Again, according to Marcel Morissette, it was Ms. X who took the initiative and who allegedly made the advances. He described them and then he stated that he was stunned. He did not know what to say. It was three o'clock in the afternoon. Nevertheless, he did not protest. He agreed to take a shower with Ms. X. He followed Ms. X to the small laboratory because he did not want to upset her, he explained. He described how they made love and what Ms. X allegedly said to him. According to him, they had "intercourse" this time. He testified that he felt "insecure" because an

employee could have surprised them at any time. He added that, previously, when he worked or walked around with Ms. X, she would say to him "I am already wet". He stated that he did not check to see if it was true.

According to Marcel Morissette, they had five sexual encounters. They allegedly had intercourse only once, the last time, on October 3, 1995. He stated that he had sexual relations "reluctantly".

What "outraged and offended" Marcel Morissette the most, he said, was the incident with the carrots that happened two weeks earlier, in September. He testified that after the other employees had left the kitchen and he was eating a carrot, Ms. X allegedly said to him: "I masturbated with the carrot you are eating". He thought such behaviour to be "deviant" because, he said, "if it was true, he could have contaminated his wife without knowing by giving her hepatitis for example". He did not say anything at the time except: "You should not touch things that belong to others", because, according to Marcel Morissette, Ms. X was free to manipulate him.

The last time that Marcel Morissette saw Ms. X before she filed her complaint was on October 4. On that day, she allegedly convinced him to give a short training and exercise session to the employees in the basement of the swine facility. While they were going down the stairs, she allegedly put her hand in his shorts and held his penis, so that he had to grab her by the waist in order to avoid falling over backwards. They then proceeded with the work out.

On the evening of October 4, Marcel Morissette was allegedly very unhappy. He was wondering if this relationship with Ms. X would go on. "I have a family. I had "the need". I was at an impasse. I did not have the means to stop "Madame". I was afraid she would commit suicide. I was submissive. I was at a dead end. I was being controlled."

October 5 and 6 were Ms. X's days of rest. She did not show up for work on October 7 and 8. On the Sunday morning, Marcel Morissette's son, Dominique, called to tell him that Ms. X had not come to work.

On October 9, Marcel Morissette was very nervous. Ms. X's personal belongings had disappeared. With the help of the employees, he searched the buildings. He was afraid that Ms. X might have killed herself.

On October 10, he saw Francine Phaneuf in tears. She was coming out of Dr. Deschênes office.

He then went into Dr. Deschênes' office. Still according to Marcel Morissette, Dr. Deschênes shouted at him. He was angry. He pointed his finger at him and told him: "It would be better if you admitted what you have done to [Ms. X]. Heads will roll." Marcel Morissette answered: "I am not answering any of your questions and I will not answer unless you put on paper what you are accusing me of."

On October 17, Marcel Morissette, who had suggested the matter be resolved through mediation, learned that Ms. X had refused mediation. He added that Dr. Deschênes did not give him an opportunity on that day to give his version of the facts.

On October 20, Dr. Deschênes informed Marcel Morissette that he had turned the investigation over to an investigation firm and he gave Marcel Morissette a copy of Ms. X's complaint. Since the complaint (Exhibit E-4) gave the impression that, in addition to Ms. X, other employees had been harassed, Marcel Morissette thought that this was an attempt to compromise him and to get rid of him. Indeed, he felt that the Director had been wanting him to retire since June. Further, he felt that the researchers wanted to exclude him from the construction of the new swine complex. In September 1995, an individual named Pommard allegedly suggested that he should resign and then act as a special agricultural consultant to the Department. He also felt that the researchers did not like him because he was opposed to commercial slaughtering. He learned in November 1995 that he had not been invited to a meeting on the new swine complex. Consequently, he thought that Ms. X's complaint had been seized upon as the means to get rid of him. However, he did not think that Ms. X was involved directly in this effort.

Marcel Morissette denied discussing the complaint and the progress of the investigation with his employees during the investigation. He denied putting any

pressure on them. He felt that "the group, we were united . . . I wanted our solidarity to continue . . .".

He admitted showing Ms. X's complaint (Exhibit E-4) to France Champagne and to Francine Phaneuf. According to Marcel Morissette, the women felt maligned because they felt that some of the passages in Ms. X's complaint implied that Ms. X was not the only one to have been harassed. Marcel Morissette therefore suggested to them that they distance themselves from the complaint. However, he denied intimidating France Champagne and Francine Phaneuf.

It is possible that he placed his hand on Dr. Farmer's buttocks, as she alleged, but it was his view that there was nothing "vicious" in the act and that it happened while he was instructing her in self-defence or the "Nadeau technique".

As for Francine Phaneuf's allegations according to which he placed his hand on her thigh, he thought that Francine Phaneuf had exaggerated and that if it happened it was simply to get her attention and "it was nothing vicious".

He admitted that France Champagne had spoken to him of her discomfort and that of the other employees to seeing him walk in his underwear from his office to the shower. According to him, he wore "shorts" most of the time when going to the shower. He admitted that it was "possible" that he might have gone to the shower in his underwear when the men were watching. However, he claimed that he had seen France Champagne wearing a knotted towel around her chest. He also pointed out that France Champagne told him that she had been raised in "a very strict" environment.

He was taken aback to hear the testimony of Michèle Guillette at this hearing because he considered her a friend. According to him, it was Michèle Guillette who had taken liberties with him and not the reverse. As a joke, she had hunted around in his pants pockets and had wiped her hands on his thighs when they were working together.

He denied ever bragging about examining his sperm under a microscope.

He denied speaking to Ms. X about his intimate relations with his wife and stated that, in fact, it was Ms. X who spoke to him about her intimate relations with her husband.

He admitted that it was possible that he had offered to give his employees massages. He pointed out that he held a licence to operate a health centre and that he might have wanted to help certain employees who were complaining about pains, especially in their necks. He remembered giving Ms. X a massage and then referring her to a massage therapist.

If he had tried to measure the adiposity of certain people, it was because the employees of his team asked him to do it.

Marcel Morissette pointed out that the employees had testified at this hearing in the presence of their boss, Dr. Deschênes, and he believed that this should be taken into consideration in assessing their testimony.

Marcel Morissette denied making advances to Ms. X, either directly or indirectly. He stated that he would not have dared. He confirmed that Ms. X was very reserved in the way she dressed until 1995, but in the spring of 1995, "she began dressing in a more provocative manner". She would also arrive at work with her bra in her pocket and, beginning in 1994, she left her underwear lying around in the shower. According to Marcel Morissette, Ms. X left her underwear near his office. She also wore only her underwear under the smocks ("chiennes" was the term used by Marcel Morissette to describe the outfit worn by the employees when working).

He knew that Ms. X was taking medication and he had noticed that she was more relaxed since she had been taking them.

Marcel Morissette denied that he had controlled his employees. He did not believe that he had insisted that people follow his example concerning food or physical fitness. He did not prevent anyone from drinking coffee. He practised judo holds at work with his son Dominique and with Ms. X, but he did not do so with France Champagne and Francine Phaneuf because "they did not like it".

He admitted that after Ms. X filed her complaint, he told the employees, between November 21 and December 21, 1995, that Ms. X "needed sex" and that she had come on to him. He did not go into detail. It was his opinion that it was Ms. X who revealed certain facts and that he had therefore revealed some in return. He stated that, in July 1995, it was Ms. X herself who discussed her intimate relations with her



husband before the group. She allegedly said that she "had worn her husband out and that he had had two bouts of mononucleosis because he was worn out."

Marcel Morissette pointed out that he was suspended in December, right before the holidays, and that no consideration was given to his many years of service. He was also allegedly told in January 1996 that he might lose his pension and his severance pay. Then his employment was terminated. He could have understood receiving a month's suspension, but he did not understand why he was terminated. He also had the impression that his union wanted him to resign.

He denied virtually all of the allegations made in Ms. X's complaint, except for walking from his office to the shower in his underwear, brushing against the female employees (he explained that it could have happened accidentally because of the tight quarters), massaging Ms. X's neck, and caressing Ms. X's erogenous zones (he explained that he had done so because Ms. X offered herself to him willingly and, moreover, he told her that she had "a beautiful full vulva").

He explained his behaviour toward Ms. X by stating that Ms. X had "jumped" on him, that "her need was great" and that, because she had to go home after work, it was difficult to have sexual relations anywhere other than at work during work hours. Marcel Morissette claimed that he was afraid that Ms. X would take her own life if he reported her to the Director. He would have liked to have done something else but he could not because of his fear and because Ms. X was so demanding. He also remembered the demonstration she had given him of how she would kill herself with the matador and how the needle would pierce her brain. He considers himself the victim in this case.

Under cross-examination, Marcel Morissette explained that he told the investigator, Jean Lefebvre (Exhibit E-21), that he had had sexual relations with Ms. X five times and that he considered them to be intimate relations between consenting adults. He did not trust the investigator and, consequently, he did not give him the details. In his opinion, the investigator was an arrogant person. The investigator said: "You act as though you were the victim and you deny everything!"

He did not tell the investigator that he was afraid that Ms. X would kill herself if he rejected her advances. Nor did he tell this to his union representative because he

felt that he would not be properly represented. Further, it is his opinion that the union made a quick decision on his case and then dropped it on February 5, 1996. (Even at the fourth level of the grievance procedure, he chose not to explain his fear of Ms. X's suicide.) That is why he had to wait three years, that is, until his testimony before this hearing, to explain to the adjudicator that he was afraid that Ms. X would commit suicide.

Marcel Morissette added that he is like a boxer, he is able to defend himself, he practices the martial arts (second level black belt) so that he can defend himself, he has fought since the age of 15, he owns income-generating buildings, he knows how to fight, but that he was "completely helpless" before Ms. X.

Before he attended a sexual harassment workshop, he thought that sexual harassment did not occur unless there was intercourse.

If the jokes he told offended his employees, then he was sorry; he did not intend to offend. However, he does not believe that his employees were afraid of him. He told his employees that Ms. X had a fantasy about carrots because he had been humiliated and that was his way of fighting back. He was angry at Ms. X for asking at a sexual harassment workshop what a person should do if it was her boss who was harassing her. He did not want to ruin Ms. X's reputation but, by filing the complaint, she had revealed to the world her boss's behaviour and, consequently, "what goes around, comes around".

He told his employees that the nurses had lifted the sheets up to see his erection while he was in the hospital, because he wanted to show them that nurses "were as preoccupied with sex as men". He also recalled telling his employees, on another occasion when he had had surgery, that they had shaved his pubic hair twice.

#### Testimony of Anthony Marsh

Lastly, the final witness, Anthony Marsh, a labourer (GL-MAN-07), who had worked at the swine facility since August 27, 1996, and who held a permanent position, testified that he was a colleague of Ms. X. He stated that one day, in March or April 1998, he heard Ms. X talking to herself, in a loud angry voice, saying: "I went to see Deschênes . . . I said to him: "I will tell you a story . . ." He said: "We may give you

a permanent position" and I did not get it". Anthony Marsh explained that he told this to Marcel Morissette's son, Dominique Morissette, and that the latter asked him to repeat what he had heard to his father's lawyer.

Under cross-examination, he stated that what Ms. X had allegedly said was: "I went to see Deschênes. . . I said to him: "I will tell you a story. . . maybe you will be able to give me a permanent position"."

Anthony Marsh also stated that Ms. X was a casual employee and that she would be laid off soon.

### Employer's rebuttal

#### Testimony of Dr. Jean-Marc Deschênes

During rebuttal, Dr. Jean-Marc Deschênes, Director of the Central Experimental Farm in Ottawa since August 1998 (and Director of the Lennoxville Research Centre at the time of his testimony in chief) stated that, at no time, did Ms. X try to negotiate a permanent position in exchange for her allegations against Marcel Morissette. According to Dr. Deschênes, in January or February 1996, during a meeting in which she was informed of Marcel Morissette's termination of employment, she alluded to the possibility of obtaining a permanent position. Dr. Deschênes replied that the two matters were quite separate. Since then, Ms. X has not spoken to him about the matter.

Under cross-examination, he added that Ms. X would be laid off in the near future. Only two casual employees would be left: Francine Phaneuf and an individual named Joëlle Boudreau. The number of permanent positions had been increased (six full-time equivalents).

Counsel for the parties informed me that, by mutual agreement, Ms. X would be laid off two weeks after the last day of this hearing, which was October 20, 1998.

Counsel also informed me that, after she testified, Ms. X took sick leave in May 1998.

This concludes the rebuttal.

## Arguments

### For the employer

The argument of counsel for the employer can be summarized as follows.

Following an investigation, the employer concluded that Marcel Morissette had been involved in sexual harassment and that the degree of his misconduct warranted the termination of his employment. Marcel Morissette's management style was based on wielding personal power. His employees were controlled psychologically. Ms. X was not equipped to react properly to Marcel Morissette's advances and he took advantage of this. Marcel Morissette's actions contravened the employer's values. Even Ms. X's fellow workers had been harassed by Marcel Morissette. It was a tragic situation in which the persons involved gave up.

Dr. Guérin's testimony clarified Ms. X's state of health and her personality. Ms. X was suicidal at the time she had sexual relations with her boss. This was not a love affair as Marcel Morissette claimed, but rather five brief sexual encounters, without any foreplay, at the workplace and once when Ms. X and Marcel Morissette were returning from a work-related trip. How can one believe Marcel Morissette when he claims that he succumbed to Ms. X's advances because he was afraid she would kill herself, and then he states that he had sexual relations with Ms. X, at the workplace, when he was on holidays and she was working. If he was afraid of Ms. X, why would he go to the farm and risk running into her?

Marcel Morissette was the supervisor. He was required to provide his employees with a healthy workplace, free of sexual harassment. Ms. X had personal and family problems. Marcel Morissette added to her problems.

A supervisor who engages in lovemaking with a subordinate at the workplace must consider the consequences. In this case, the sexual relations created a "poisoned work environment" (see *Le harcèlement sexuel au travail*, Maurice Drapeau, Les Éditions Yvon Blais Inc.). This affair could have ended with Ms. X's suicide or her resignation.

Ms. X has suffered a great deal. During her testimony, she was candid, making several admissions that could have been detrimental to her. She is a credible person

who provided balanced testimony while Marcel Morissette did not admit any wrong and tried hard to justify himself.

Ms. X never ranted and raved against her supervisor, while he on the other hand tried to discredit her with her fellow workers, without ever admitting to them that he had sexual relations with her at the workplace.

The criteria that must be applied when sexual harassment takes the form of sexual relations is whether those relations were "welcome" (in *Bonnie Robichaud* and in *Vinson*).

If we examine the situation from a distance, it is clear that sexual relations with Marcel Morissette was not what Ms. X wanted for herself. Dr. Guérin's testimony confirms this conclusion.

Marcel Morissette claimed that he gave in to Ms. X's advances because he was afraid that his refusal would lead her to commit suicide. This is an explanation he invented to justify his actions and it is not credible given all of his actions together.

It is ironic to note that Ms. X's fellow workers did not have the courage to complain. In the end, it was the weakest among them who complained because she had reached the end of her rope.

Despite his good service, as soon as Marcel Morissette placed the blame on the shoulders of others, he had to go because he did not understand anything.

The following decisions were cited: *Bonnie Robichaud v. Dennis Brennan* (1982), 3 C.H.R.R. d/977; *Bonnie Robichaud v. Dennis Brennan and The Treasury Board* (1983), 4 C.H.R.R. d/1272; *Brennan v. The Queen*, [1984] 2 F.C. 799; *Lambert and the Quebec Human Rights Commission v. Lemay*, [1995] R.J.Q. 1967; *McMorrow* (Board file 166-2-23967); *Hachey and the Quebec Human Rights Commission v. Habachi*, [1992] R.J.Q. 1439; *Meritor Savings Bank v. Vinson* (1986), 477 U.S. 57; *Re Nakusp and District Community Services Assn. and U.C.F.W.* (1997), 63 L.A.C. (4th) 338; *Willband v. The Queen* (1966), [1967] S.C.R. 14; ; *R. v. Lavallée*, [1990] 1 S.C.R. 852; *Montréal (Urban Community) v. Société en commandite Place Deguire*, [1996] A.Q. n° 4304 (Quicklaw); *Q. v. Burns*, [1994] 1 S.C.R. 656; *Q. v. Marquard*, [1993] 4 S.C.R. 223; *Bannister v. General Motors of Canada Ltd.*, [1988] O.J. 3402 (Quicklaw); *Cherie Bell and Anna Korczak v.*

*Ernest Ladas and The Flaming Steer Steak House* (1980), 1 C.H.R.R. D/155; *Burridge v. Katsiris*, (1989), 11 C.H.R.R. D/427; *Terese Faye Cox and Debbie Cowell v. Super Great Submarines and Good Eats* (1981), 3 C.H.R.R. D/609; *Foisy v. Bell Canada*, [1984] C.S. 1164; *Maria Giouvanoudis v. Golden Fleece Restaurant and Steve Carras* (1984), 5 C.H.R.R. D/1967; *Gonzales v. Catholic Church Extension Society of Canada*, [1998] O.J. n° 3404 (Quicklaw); *Janzen and Govereau v. Pharos Restaurant and Grammas* (1985), 7 C.H.R.R. D/3309; *Janzen v. Platy Enterprises Ltd.*, [1989] 1 S.C.R. 1252; *Korda v. JP Enterprises Ltd.* (1990), 12 C.H.R.R. D/201; *Nesvog v. Rutshmann* (1988), 9 C.H.R.R. D/5293; *Noffke v. McClaskin Hot House* (1989), 11 C.H.R.R. D/407; *Kristina Potapczyk v. Alistair MacBain* (1984), 5 C.H.R.R. D/2285; *Purdy v. Marwick Manufacturing Co.* (1987), 9 C.H.R.R. D/4840; *Voeller v. Kingfisher Sales Inc.* (1990), 11 C.H.R.R. D/433; *Sheri Zarankin v. Ian Johnstone* (1984), 5 C.H.R.R. D/2274.

Counsel for the employer submitted additional representations drafted by intern Karine Lahaie-Ruel, which the latter entitled "Notes and Authorities".

#### For the grievor

The argument of Marcel Morissette's representative can be summarized as follows.

Perception is at the heart of this case.

Ms. X is not the only one responsible for this situation, However, it must be concluded that she had personality problems.

It is perplexing that the investigator felt a need to expand the scope of his investigation and to question female technicians and researchers. Further, some employees have changed their testimony since the investigation.

This is a case of a tempest in a tea pot. Ms. X was not caught in a "Catch 22".

Ms. X was depressed well before the sexual relations occurred. This was not her first depression. We have to believe that this affected her perception of the facts. Although we must acknowledge that she was disturbed, since witnesses confirmed her depression, we must ask ourselves whether there is a direct link between this state and what happened with Marcel Morissette. Was she a victim?

Marcel Morissette helped Ms. X when she needed it. He responded to Ms. X's sexual needs. She made advances to him.

It has not been denied that Marcel Morissette was "a ladies' man" and that he liked to give them compliments. But his behaviour must be considered in the family-like atmosphere of the team responsible for the swine facility. If his comments were upsetting, then the employees should have told him so.

Given his age (63 years), Marcel Morissette cannot be held accountable for his comments. Further, prior to the meeting in November 1995, Marcel Morissette had not been made aware of what constituted sexual harassment. All of the employees learned about it at the same time, which explains why they did not react earlier.

Since only Ms. X filed a complaint, it must be concluded that the employees tolerated Marcel Morissette's behaviour. Marcel Morissette has become the scapegoat because, one day, an unhappy employee complained. From then on, Marcel Morissette's qualities became faults.

Moreover, we cannot simply dismiss, Marcel Morissette's hypothesis that there was a plot to get rid of him.

Even if we accept as true everything of which Marcel Morissette is accused, that there was harassment and that he is the only person responsible, termination of his employment is not the appropriate action.

Even at 63 years of age, a person can change. An effort should have been made to "rehabilitate" Marcel Morissette. He could have been given some training and told how to change his behaviour.

Ms. X should also have been penalized for having sexual relations at the workplace.

In addition, all of the blame cannot be placed on Marcel Morissette for Ms. X's thoughts of suicide. Since 1993, she had been in a complex process and Marcel Morissette was only one of a great many factors. If Marcel Morissette had been the cause of her problems, Ms. X's depression would have been resolved after she filed the complaint. These were welcome sexual relations. Ms. X admitted making certain

advances. We can assume that she did not think that filing her complaint would lead to her supervisor's termination of his employment. She was feeling guilty because of her husband and the fact that she had not respected her own values, but she did not feel cornered by Marcel Morissette.

Marcel Morissette suffered and was humiliated by this complaint at the end of his career. Because of his age and the fact that his experience is limited to a single sector, he has no other employment prospects. If he had had improper intentions regarding Ms. X, he would not have objected to the disciplinary measure and would have accepted the resignation that the Director suggested to him.

He is asking that his dismissal be rescinded; he no longer wishes to be reinstated; he wants to be retroactively reimbursed from the date of the termination of his employment for the wages and benefits of which he was deprived, and he is requesting that he be given his retirement benefits and any damages that the adjudicator may consider appropriate.

The following decisions were cited: *Samra* (Board file 166-2-26543); *MacLean* (Board file 166-2-22580); *Azerad* (Board file 166-8-21610); *Bennett* (Board file 166-2-21123); *Kahlon* (Board file 166-2-20871); *Gaudreau* (Board file 166-2-17074); *Tourigny* (Board file 166-2-16434); and *Potvin* (Board file 166-2-14871).

In addition to these representations, there were the written representations filed in response to those of Karine Lahaie-Ruel from counsel for the employer.

#### Reply of counsel for the employer

Marcel Morissette knew that the women did not like his behaviour. He was rude to them. It is wrong to claim that people his age were raised that way. People his age were taught to respect others.

When Ms. X complained to her physician in September 1995 of sexual harassment by her boss (Exhibit E-14, page 5), she could not have foreseen that three years later she would find herself before an adjudicator and would testify on this matter.



It is not a tempest in a tea pot for the employer to be concerned that an employee considered killing herself on the employer's property because of the actions of a supervisor.

It is not the women who misunderstood the situation. They are not guilty of anything.

It is important to send them a message, that they know that they can file a complaint and that even a casual employee may file a complaint and protest against sexual harassment.

Reply of Marcel Morissette's representative

Marcel Morissette's claim is that there is no guilty parties, that, simply stated, Ms. X had problems and their relationship was a love affair.

REASONS

The grievance is denied. It is my opinion that the employer discharged the burden of establishing that Marcel Morissette's suspension and termination of employment were justified. I find that Marcel Morissette sexually harassed his employees and Ms. X in particular. I find that the complaint filed by Ms. X (Exhibit E-4) was founded and, accordingly, I reach the same conclusion as the investigator, *Le Groupe J.L.*, which conducted an investigation (Exhibit E-3) after Ms. X's complaint was filed (Exhibit E-4).

The evidence shows that Marcel Morissette adopted an attitude and acted in such a way that, whether considered in isolation or together, his conduct amounted to sexual harassment, as well as to abuse of authority.

Whether this case is evaluated on the basis of the definitions<sup>1</sup> contained in the Treasury Board Policy on Harassment in the Workplace (Exhibit E-16) or that proposed by author Maurice Drapeau in his excellent work, *Le harcèlement sexuel au travail* (Les Éditions Yvon Blais Inc., 1991) or that of adjudicator Shime, upheld by Dickson, J. in *Janzen v Platy Enterprises Ltd.*, [1989] 1 S.C.R. 1252, as well as that of professor Arjun

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<sup>1</sup> These definitions are provided in the Appendix.

P. Aggarwal, *Sexual harassment in the Workplace* (Toronto, Butterworths, 1987), the conclusion must be the same.

The witnesses called by the employer described what amounts to a "work environment poisoned" (expression used by author Maurice Drapeau) by jokes and comments of a sexual nature to the point that it constituted an offensive environment. Further, they told of various incidents of physical contact and touching. They described a pattern of exhibitionism by their foreman, Marcel Morissette, who regularly exhibited himself in his underwear in front of the employees while going to the shower. He even went so far as to issue orders while he was in his underwear. They also reported inappropriate comments by Marcel Morissette.

Some of the employees (as well as certain researchers) suffered unwanted attention by Marcel Morissette. Ms. X was the one who suffered the most and who, when she was vulnerable, depressed and suicidal, gave in to Marcel Morissette's sexual advances and had five sexual encounters with him in a short space of time. Following these incidents, she filed a complaint (Exhibit E-4). I will come back to this later.

Lastly, the witnesses told of the "abuse of authority" that they experienced by Marcel Morissette after Ms. X's complaint was filed. This abuse of authority manifested itself in the form of intimidation and threats in an effort to get them to object to the complaint and to influence their testimony before the investigator. This abuse of authority also took the form of systematic attempts by Marcel Morissette to tarnish the image and reputation of Ms. X by making allegations about her to her fellow workers, and to other employees working outside the swine facility, concerning her sexual preferences, her fantasies and even her sex life with her husband, as well as her psychological problems.

Before we go into the evidence any further, it is important to provide the context.

### Context

Marcel Morissette is 63 years old. He has 43 years of seniority. He has been the foreman at the Research Centre's swine facility for more than 40 years. His competency is unanimously recognized by his employers, his associates (the

researchers, technicians) and his employees, and his performance appraisals (Exhibit A-11) confirm this. He is also an authoritarian man who runs the swine facility with an iron fist. Because of his competency and his authority, he has achieved ascendancy over his entourage, including the Director of the Research Centre and the researchers who trusted the application of their research projects to him. He is also quite skilled in and a teacher of judo, as well as an advocate of healthy eating. His influence over his employees was such that they felt uncomfortable drinking coffee or eating certain foods in his presence.

Marcel Morissette's employees were much younger than he (Francine Phaneuf, France Champagne, Claude Mayrand, Ms. X). They were in their early twenties, fresh out of CEGEP, keen to do well and to keep their jobs. They considered themselves lucky to have found a job in their field of study (theory: animal health or farm management) and they were hired as casual employees. Marcel Morissette's son was also one of his employees. He was initially hired as a casual employee (he has held a permanent position since 1991) and he was in his early twenties. His father did his performance appraisal and he was the only one to fill in for his father, on an acting basis, in the latter's absence. To use the words of the witness Francine Phaneuf, Dominique Morissette and his father made an "imposing duo". No one dared to complain, but this relationship created an "omnipresent unease".

The work was performed in teams of two and Marcel Morissette was the one who decided the make-up of the teams and the locations where each team would work, that is, in the swine facility, in the buildings or in nearby locations.

The employees were very aware of the uncertainty concerning their status and they made every effort not to displease Marcel Morissette.

They lived in isolation with little contact with other employees of the Research Centre. A certain degree of promiscuity was imposed on them by the fact that the men and women were required to share the same shower facilities.

Marcel Morissette regularly made them feel the weight of his authority and he reminded them that they were hired on a casual basis. He told them repeatedly (testimony of Claude Mayrand) "that he protected them from the outside".

Ms. X was in the same precarious position as her fellow workers. She also had her own vulnerabilities.

She had had a difficult childhood. Her parents were separated. At a very young age, she was sexually harassed by members of her family; her mother told her she had to put up with it. As an adult, Ms. X suffered from depression. When she married, she became the main income earner for her family (she has two children). Her husband was constantly pressuring her to work and to bring in money. Ms. X joined the Jehovah's witnesses in 1984. In 1985, Ms. X's mother, who also suffered from depression her whole life, committed suicide. Ms. X's depressions began getting worse in 1993. She thought about suicide.

In 1995, she experienced a severe depression and it is during this depression that she had five sexual encounters with Marcel Morissette. I will come back to Ms. X's specific vulnerabilities later, as well as to the related testimony of a psychiatrist.

I will now give my conclusions of fact on the work atmosphere and the conduct of Marcel Morissette concerning his subordinates and other employees.

#### (1) Jokes

It is clear from the testimony of Marcel Morissette's employees (Ms. X, France Champagne, Francine Phaneuf, Claude Mayrand), the Research Centre researchers (Chantal Farmer, Jacques Matte), the female technicians (Claire Corriveau, Louise Thibault, Michèle Guillette, Normande Ouellet), and even the testimony of Dominique Morissette, that Marcel Morissette told jokes of a sexual nature on a regular, if not daily, basis. They consisted of rude jokes, frequently disdainful of women, which went even so far as "to belittle them" and to compare them to animals. Some of the employees told them as well but, overall, it was Marcel Morissette who told the most. Several witnesses testified that when they heard Marcel Morissette's "jokes", the employees laughed nervously. The atmosphere that was described to me existed from the time of the arrival of the above-mentioned employees in 1991. The description was of a work environment saturated with sex-related jokes, the primary instigator of which was Marcel Morissette. Even Dr. Jacques Matte, who was called as a witness by

Marcel Morissette, explained that, while Marcel Morissette's jokes did not make him uncomfortable, he understood that "jokes about women could be perceived as sexual harassment".

Dr. Chantal Farmer and the technicians, Chantal Corriveau and Louise Thibault, as well as Ms. X, testified that they were uncomfortable listening to Marcel Morissette's jokes. Francine Phaneuf stated that the jokes "went far". Claude Mayrand confirmed that Marcel Morissette's stories made not only Ms. X but also France Champagne uncomfortable.

It is clear that Ms. X complained (Claude Mayrand, among others, confirmed this) to Marcel Morissette and that it was known, by Marcel Morissette and other employees (Ms. X's fellow workers, Dr. Chantal Farmer, the technicians Chantal Corriveau and Louise Thibault) that Ms. X did not appreciate the stories told by the grievor.

Rather than ceasing to tell his jokes, Marcel Morissette made fun of Ms. X and put her down by criticizing her for being a Jehovah's witness. He made her feel like she was the one who was in the wrong. Even his son, Dominique Morissette, admitted in his testimony that it was clear that jokes of a sexual nature made Ms. X uncomfortable. Marcel Morissette's son also stated that a variety of jokes were told, including ones about blacks, Newfoundlanders and Jehovah's witnesses.

Having assessed the credibility of the researchers, the technicians and Marcel Morissette's employees, I accept their version rather than that of Marcel Morissette. As I stated earlier, even Dr. Matte, called by Marcel Morissette, testified along the same lines as the employer's witnesses.

It is my opinion that, by subjecting his employees to his sex-related humour, and by doing so on an almost daily basis, Marcel Morissette poisoned their work environment. The half-hearted participation of some of the employees does not in any way mitigate the responsibility of Marcel Morissette, who, as the employer's representative in the swine facility, had an obligation to provide the employees with a workplace free of sexual harassment. Neither Marcel Morissette's age (defence invoked by his representative), nor the workplace (traditionally a man's domain) are legitimate defences. To accept them would be to say, on the one hand, that women working in an

environment previously dominated by men would have less of a right to an harassment-free environment than women working in environments that have traditionally been female-dominated, and on the other hand, that older men, because of their age, would enjoy greater protection when they committed harassment.

Through his humour, Marcel Morissette relentlessly harassed his employees. Like many people in authority, he did not have the perceptiveness to realize that, in response to his humour, his employees were “laughing nervously”, as several witnesses testified. He relied on a fundamental reality in any workplace, that is, that employees have a keen sense of the hierarchy and the influence that their boss has on their careers and, consequently, commonly repress their feelings about the conduct of their superiors even when that conduct is reprehensible. This reality can be especially true when, as in the present case, employees hold casual positions. As a result, the employees chose to “laugh nervously” and it took Ms. X’s complaint for them to finally acknowledge their true feelings.

It appears obvious to me that the employees tried, each according to his or her own defence mechanisms, to adjust to a situation created by their supervisor. To use the words of author Maurice Drapeau (*supra*), it was a case of [Translation] “passive tolerance” rather than of [Translation] “free and voluntary acceptance”.

Not only were Marcel Morissette’s jokes of a sexual nature out of order, but so were his jokes about Jehovah’s witnesses. It is a well known fact that, in personal relations, humour frequently masks hostility. In this case, I believe that the jokes about Jehovah’s witnesses represented a lack of respect and a way to ridicule the beliefs of Ms. X who is a Jehovah’s witness. Marcel Morissette was the person in authority; he had an obligation to provide his employees, and Ms. X in particular, with a work environment free of sexual harassment and, moreover, one that was respectful of their religious convictions

## (2) Statements and comments

Ms. X recounted various statements in which Marcel Morissette drew a parallel between pigs and women. Further, when as part of the research projects it was part of Ms. X’s duties to collect data on the oestrus of the animals, Marcel Morissette made such comments to her as: “Are you going to get down on all fours?” or “You do not

have a penis, so you can't tell when someone is in heat". It is very clear from Ms. X's testimony that she felt belittled.

Marcel Morissette also spoke regularly to Ms. X and to Francine Phaneuf about his own sex life. Sometimes he alluded to the fertility of his sperm in front of his employees, sometimes he gave his opinion about the sex life of others and sometimes he even made such comments as saying to a female employee who was coming out of the shower (the employees used the shower at the end of their shift because their work was dirty): "Stop abusing your body". As for Ms. X, when she came out of the shower, Marcel Morissette made various comments to her about her thighs and her buttocks. He also brought to work articles which he showed to his employees on such topics as "How to make your penis bigger" or "How to grow more hair", etc., and according to Francine Phaneuf, among others, he encouraged discussions on topics of a sexual nature.

Ms. X also testified that Marcel Morissette spoke to his employees about the erections he had during a hospital stay, telling them that the nurses lifted the sheets to see the size of his penis. Witnesses Francine Phaneuf and Michèle Guillette confirmed Ms. X's testimony. Michèle Guillette testified that the employees "laughed nervously".

Marcel Morissette confirmed that he had spoken about his erections. He explained his comments by saying that he wanted to show his employees that nurses "were as preoccupied with sex as men". Moreover, he insisted on placing in evidence an extract from some book on the effects of certain medications that he had allegedly taken while he was hospitalized (Exhibit A-19).

He then went on to say that, on another occasion when he had surgery, he told his employees that they had shaved his pubic hair twice.

During his testimony, Marcel Morissette gave no sign of being able to stand back from himself. At no time did he question his actions, not even to ask himself why he had such a need to instruct his employees on sex-related matters and to share with them his opinions and his "knowledge" about sex, as well as the fact that, in his opinion, the nurses were interested in his erections while he was in the hospital. The whole of the comments reported by the witnesses reveal a man obsessed with

anything related in any way to sexuality. Marcel Morissette's comments not only reveal his propensity to talk about genitalia but contributed to poisoning the work environment of Ms. X and her colleagues. His comments and innuendoes were inappropriate and, based on their testimony, they made the employees uncomfortable or offended them. Combined with Marcel Morissette's jokes (related earlier), his actions and various conduct (which I will relate later on), they created a work atmosphere that amounted to sexual harassment. Marcel Morissette's comments to Ms. X were degrading and showed a complete lack of respect for her. His insistence on wanting to improve the sex education of his employees was out of order. As for Marcel Morissette's explanations of why he talked about his erections, they are blatant evidence of his lack of judgment as a supervisor. Moreover, by assuming responsibility for instructing his employees on the sexual preoccupation's of nurses, he overstepped not only his duties, but also the limits of propriety. Lastly, it is clear from the testimony of his employees that his various comments, taken as a whole, created offensive working conditions.

### (3) Actions

Marcel Morissette did not limit himself to jokes and comments of a sexual nature. Over the years, he took liberties with three women (Ms. X, Francine Phaneuf and France Champagne) who worked under his supervision, as well as with Dr. Chantal Farmer and the technician, Claire Corriveau.

On one occasion, he put his hand on Dr. Farmer's buttock. On another, he put his hand on Francine Phaneuf's thigh and on that occasion, his actions were observed by Dr. Farmer herself. He touched the technician Claire Corriveau "in the right places", according to her, although she stated that she was not "put off" by it. He touched his employee, Francine Phaneuf, sometimes on the hand, sometimes on the shoulder and sometimes on the thigh. Ms. X confirmed witnessing these scenes. On one occasion, when they were in a vehicle, he put his hand on Francine Phaneuf's thigh "high enough for her to be uncomfortable" (above the thigh) and left his hand there for a long time. Her fellow worker, France Champagne, had already had to endure the attentions of Marcel Morissette and he had previously placed his hand on her thigh as well.



Marcel Morissette also put his hand on Ms. X's thigh on several occasions. France Champagne and Claude Mayrand confirmed seeing him do this. Both France Champagne and Ms. X complained to their colleague, Claude Mayrand, that Marcel Morissette touched them. Marcel Morissette also tapped Ms. X's buttocks. Claude Mayrand saw him do it.

Between the testimony of the above-mentioned persons and that of Marcel Morissette, I choose that of the above-mentioned persons. (I am not considering the testimony of Julie Duquette because she did not go to the swine facility very often.) The number of witnesses and their credibility, as well as certain admissions by Marcel Morissette himself, argue in favour of this conclusion. While trying to minimize the importance of his actions ("it was not vicious"), Marcel Morissette admitted placing his hand on the buttocks and thigh of Dr. Farmer and Francine Phaneuf. I conclude that he did the same thing to Ms. X and, as I mentioned earlier, the incidents were corroborated by other witnesses. The evidence is clear that the female employees concerned did not appreciate these familiarities by Marcel Morissette.

In addition to touching, Marcel Morissette also permitted himself physical contact with his female employees and used massages and judo holds as a pretext to touch them. He also stood too close to the female employees, invading their personal space (testimony of Dr. Farmer, Claire Corriveau and Ms. X). (Even the witness, André Boucher, called by Marcel Morissette, testified that a female student complained to him about Marcel Morissette's judo holds.) His actions earned him a reputation. The female employees talked about him among themselves and warned female students who came for training periods at the Research Centre about him (testimony of Ms. X, Dr. Farmer and technicians, Claire Corriveau and Louise Thibault). Marcel Morissette was even aware of his reputation and enjoyed it, saying to Ms. X that he liked people to think of him as "the barnyard rooster".

For his part, Marcel Morissette denied brushing against people, except to the extent that they were accidental, and he denied that the touching reported by Ms. X and her fellow workers was inappropriate; he admits "offering" to give his employees massages to help them when they had a stiff neck.

Once again, given the number of witnesses heard, their credibility and the quality of their testimony, I must accept their version rather than that of Marcel Morissette. I conclude from their testimony that, by a variety of physical contacts and inappropriate touching, Marcel Morissette's conduct toward Ms. X and the other above-mentioned women was inappropriate and that this conduct, combined with the behaviour mentioned earlier, constituted sexual harassment.

#### (4) Exhibitionism

Marcel Morissette regularly appeared in his underwear in front of his employees. The evidence to this effect is conclusive. Even he does not deny it.

Ms. X testified that she and the other female employees felt uncomfortable and that they talked about it among themselves. Marcel Morissette even gave orders to his employees for 10 minutes while in his underwear. Both Ms. X and her fellow worker, France Champagne, complained to Marcel Morissette, but without success. He accused them for being too prudish or, in Ms. X's case, for being a Jehovah's witness.

Michèle Guillette, Claude Mayrand and Francine Phaneuf confirmed the testimony of Ms. X and France Champagne. Even two witnesses called by Marcel Morissette, and who did not work in the swine facility, Dr. Jacques Matte and Julie Duquette, confirmed having seen him in his underwear when they were in the swine facility.

It is clear that Marcel Morissette knew that at least two of his female employees found this situation shocking and that, despite this, he continued to display himself. During his testimony, rather than questioning his behaviour and his own motivation in wanting to show off his body to his employees, he adopted the attitude, once again, that it was they who were wrong, and he moved onto the offensive saying that he had seen France Champagne "with a towel around her bust". This reaction is in keeping with the general attitude shown by Marcel Morissette throughout his testimony. He does not assume any responsibility for any of his conduct and blames those around him.

Marcel Morissette's exhibitionism, combined with his jokes, his comments and his actions, created a "poisoned work environment" (expression used by author

Maurice Drapeau, *Le harcèlement sexuel au travail (supra)*), to the point of “imposing an offensive environment as a working condition”. The situation described to me existed for several years. Because they held unstable jobs and Marcel Morissette controlled them by his authority, as well as his strong personality, the employees reacted with “passive tolerance that must not be confused with free and voluntary acceptance”. If some of them occasionally participated in the sex-related jokes, it was because of their individual personalities and defence mechanisms and because of the unhealthy situation. Short of quitting their jobs or filing a complaint, there was little they could do to escape it.

Having heard their testimony and having been able to observe Marcel Morissette, I have no doubt that the latter had acquired ascendancy over his employees and his fellow workers (even the chairperson of the women’s committee admitted she was afraid of Marcel Morissette) so that, other than Ms. X’s few complaints and those of France Champagne, the group of employees gave in to Marcel Morissette and came to tolerate the intolerable. The fact that the employees put up with the situation for such a long time shows how easy it is, under certain circumstances, to control a group of people.

#### (5) Sexual Relations

Ms. X and Marcel Morissette had sexual relations on five occasions over a three-month period (from July to early October 1995). Ms. X filed a complaint of sexual harassment in the days following the last sexual encounter.

Marcel Morissette claimed that he was a victim of Ms. X, while Ms. X stated that Marcel Morissette harassed her for years and that she finally succumbed to his advances while she was depressed and was taking medication that, according to her, heightened her sex drive.

First, it is my opinion that Marcel Morissette's actions toward his employees (including Ms. X), which I have related in the preceding pages, warranted the termination of his employment. I believe that Marcel Morissette knew what he was doing and was in full control of his faculties. Accordingly, even if there was no evidence of sexual relations, my decision would be the same.

Having said this, the five sexual encounters constitute an additional element, a further illustration of the sexual harassment to which Marcel Morissette subjected Ms. X.

There is no question that Ms. X participated in these sexual relations and that she gave in to Marcel Morissette's advances. Under normal circumstances, I believe it would be appropriate to hold her, along with Marcel Morissette, responsible for her decision to have sexual relations with the latter. However, the circumstances were not normal.

Indeed, my assessment of the evidence leads me to conclude that Ms. X was a very fragile person psychologically and that Marcel Morissette was aware of this fragility. Further, Ms. X had thoughts of suicide, she was under a doctor's care, she was depressed, she was taking medication for this depression and, according to Marcel Morissette's own admissions, all of these facts were known to him before the sexual relations began.

Far from thinking that Marcel Morissette was Ms. X's victim as he claims or, as his counsel claims, that this was a consenting love affair, I believe that Marcel Morissette was a predator with an easy prey and that he took advantage of Ms. X's vulnerability to get from her what he had been unable to get in the past. It is my opinion that the sexual harassment of Ms. X by Marcel Morissette during the months and years that preceded the sexual encounters actually took place and that Marcel Morissette overcame Ms. X's resistance because of her psychological instability and the depression she was experiencing. Although she participated physically in the sexual relations, Ms. X was not in a mental state that allowed her to give informed consent. She appeared to be engulfed in a psychological morass from which she was unable to extricate herself until she followed the advice of her colleague, Claude Mayrand, who convinced her that there was a solution (filing a complaint) other than resigning.

I accept as evidence of Ms. X's mental state the uncontested testimony of psychiatrist Marc Guérin. I also accept the testimony of Ms. X on her predisposition to depression, as well as Marcel Morissette's admission that he knew Ms. X was suicidal.

Further, it is my view that Ms. X's personal history (sexual abuse during childhood, a mother who killed herself in 1985, previous depressions, pressure from her husband to keep her job, her depression in 1995, Ms. X's psychological profile as described by Dr. Guérin, the instability of her job and the control exercised over her by Marcel Morissette) contains sufficient relevant factors to have made her vulnerable to the harassment by Marcel Morissette and susceptible to feeling that she was at an impasse.

Moreover, this analysis of the situation was confirmed by Dr. Guérin.

It is clear that Marcel Morissette was aware of Ms. X's fragility. He even told Francine Phaneuf and France Champagne, Ms. X's colleagues, that she was consulting a mental health specialist. He even spoke of it to the technician, Claire Corriveau. He knew Ms. X's family background. He knew she was thinking of committing suicide. During all of his testimony he repeated that he thought she was suicidal. He even knew the method she would use. He also admitted that, when she was not at work during the days following their last sexual encounter, he immediately thought that she had committed suicide and he told her fellow workers, who feverishly began searching for Ms. X.

It is also obvious that Marcel Morissette controlled not only his employees but that, because of Ms. X's psychological vulnerability, he especially controlled Ms. X. He used a variety of means, such as putting her down, telling her repeatedly that her colleagues did not like her but that he liked her, reminding her that she was a casual employee, presenting himself as the one who could comfort her when she shared her thoughts about killing herself, arranging for her to work or travel alone with him and ridiculing her Jehovah's witness beliefs. In short, even though he knew she was ill and had suicidal thoughts, he tried to manipulate her and he attacked someone weaker than himself.

In the months leading up to the sexual encounters, Ms. X complained to her fellow worker, France Champagne, that Marcel Morissette was harassing her. She even spoke to her about him in 1993-1994. She also spoke to her colleague, Claude Mayrand. During a meeting prior to May 1995 (there was another after Ms. X's complaint was filed), she raised the issue of sexual harassment by a superior. She

even told Marcel Morissette's son, Dominique Morissette, that his father had "wandering hands" and that she did not want to travel with him. Even Marcel Morissette admitted that he knew she had refused to go with him to a seminar. In short, Ms. X's conduct in the months prior to the sexual relations and the filing of the complaint, as reported by witnesses, tend to confirm Ms. X's testimony to the effect that she was harassed for months, even years, prior to having a sexual relationship with Marcel Morissette and that, for all useful purposes, and from her point of view, she was caught in a spider's web.

Ms. X's behaviour after the sexual encounters (which occurred on five occasions between July and early October 1995, during working hours and on one occasion, as they were returning from a work-related trip), also tends to confirm that the sexual encounters were only the last stage in the systematic harassment imposed on her for months, even years. It was during the days immediately following the last sexual encounter that she filed a complaint against Marcel Morissette and she did so, not on her own initiative, but at the suggestion of her colleague, Claude Mayrand, who informed her of a solution other than resigning. She was away from the swine facility for a period of time and then in the days preceding her return, her fellow worker, Claude Mayrand, and her husband found Ms. X in one of the swine facility buildings holding the "matador" rifle. Dr. Guérin testified that this was a very serious act and that he had no doubt that this was not simply a call for help and that, on that evening, Ms. X could quite well have killed herself if she had not been discovered. For my part, it is my opinion that the incident with the matador is just one more indication that Ms. X continued to be disturbed by the fact that she had given in to having sexual relations with Marcel Morissette. She was so affected, given her vulnerability, by these events and their impact on her personal life that, even after filing the complaint, she continued to see suicide as a solution to her distress, a solution that she had considered prior to having sexual relations and which her own mother had chosen in 1985.

Throughout his testimony, Marcel Morissette tried to convince me that he was a "victim" (his own word), that it was Ms. X "who jumped on him" (he stated that he was used to being attacked by women) and that he had no choice but to submit because he was so afraid that Ms. X would commit suicide if he rejected her advances.

I believe this explanation to be a complete fabrication. At no time did Marcel Morissette mention his fear of Ms. X's suicide after the complaint was filed, during his testimony before the investigator or during the grievance procedure. By his own admission, he did not even mention it to his union representative. It was not until this hearing that he used this explanation and even during this hearing, he contradicted himself, admitting that he did not give much thought to Ms. X's threat of suicide in March 1995. Moreover, at no time did he claim that Ms. X told him that she would kill herself if he rejected her advances. I believe that the fear of Ms. X committing suicide is an excuse that he is using as a last resort and for lack of any other explanation. However, I accept from his testimony the admission that he had known for a long time, before the sexual encounters occurred, that Ms. X had thought of committing suicide.

I share the view of counsel for the employer that Marcel Morissette is an individual who assumes no responsibility for his actions. His personal philosophy is that he is right and that others are wrong. Bolstered by this fundamental attitude, he accepts no responsibility for his jokes, his statements, his actions or his exhibitionism, all of which were related earlier. Consequently, he is right in character when he refuses to accept any responsibility for his relationship with Ms. X.

His reasoning is as follows: if France Champagne objects to his walking around in his underwear at work, "it is because France Champagne comes from a strict family". If Ms. X objects to his jokes, "it is because she is a Jehovah's witness". If all of his employees testified against him, "it is because the Station's Director was in the room". If he touched Dr. Farmer's buttocks and Francine Phaneuf's and France Champagne's thighs, it was they who misinterpreted his actions. If he had sexual relations with Ms. X, it was because she had taken the initiative, because he never made any advances. If he lost his job, it was not because he had done anything wrong, it was because they wanted to get rid of him. In short, according to Marcel Morissette, it was "everyone else" who was responsible and he was not responsible for anything.

Marcel Morissette's refusal to accept any responsibility whatsoever was compounded, during his testimony, by a vindictive attitude toward Ms. X. He testified that he had done nothing wrong in telling his employees a whole lot of personal details about Ms. X, because, since she had filed a complaint against him, "what goes

around, comes around” (expression used by Marcel Morissette). This admission by him is a just one more comment that diminishes his credibility.

These two attitudes are in sharp contrast to the attitude of Ms. X who, while accusing Marcel Morissette of his harassment of her, admitted taking the initiative on two occasions after the sexual relations began, when she was depressed and was taking medication. This raised Ms. X’s credibility even more in my estimation and, based on their testimony, in the eyes of her colleagues as well. I share the opinion of counsel for the employer that the fact that her testimony was honest, even candid at times, and included admissions that might have reflected badly on her, made her credible.

Because Ms. X is a credible witness, I believe her when she says that, from the time she arrived at the swine facility, she was subjected to sexual harassment by Marcel Morissette. I believe her even more since the circumstantial evidence, the testimony of her colleagues and the report from Dr. Guérin (Exhibit E-14, page 5, 3rd paragraph) tends to corroborate this claim. It is obvious that, in the past, Ms. X was harassed by Marcel Morissette (as were some of her fellow female workers), through his jokes, his comments, his actions and his exhibitionism. It is also obvious that Ms. X’s behaviour changed in the summer of 1995 and that even her fellow workers attributed the change to the medication she was taking.

Consequently, we need to find a reason for this change in conduct toward Marcel Morissette. My conclusion is that Ms. X was a sick person. Short of dismissing the testimony of Ms. X, the psychiatrist, Dr. Guérin, and Marcel Morissette’s admissions, the conclusion seems inevitable. Therefore, when she had sexual relations with Marcel Morissette on five occasions in the summer of 1995, Ms. X acted in a way that she would not have acted under normal circumstances.

During her testimony, Ms. X stated that, after each sexual encounter, she expressed her remorse to Marcel Morissette and her desire that it not happen again. Marcel Morissette ignored her protests and the fact that he was dealing with a depressed and suicidal individual. In short, he took advantage of her vulnerability to achieve his own ends. Moreover, I do not think one needs to be a psychiatrist to



understand that, based on the evidence in its entirety, Marcel Morissette took advantage of Ms. X's weakened state.

The responsibility in this situation falls on the grievor. He was the person in authority and he knew that he was dealing with an employee who was sick, depressed and suicidal and who, moreover, was under the influence of drugs. He should have refrained from any actions of a sexual nature toward Ms. X and he had the obligation to provide her, as set out in the Policy on Harassment in the Workplace, with a work environment free of sexual harassment.

(6) Abuse of authority after the complaint

Dr. Deschênes, Director of the Research Centre, testified that he told Marcel Morissette not to discuss the complaint filed by Ms. X and to let the investigation take its course. He also reminded him of these instructions in the letter of suspension (Exhibit E-1) and after the investigation report was submitted. Marcel Morissette did just the opposite. He talked about it with his colleagues (testimony of Louise Thibault, Chantal Farmer, Michèle Guillette and Claire Corriveau) and with all of his employees (testimony of Francine Phaneuf, France Champagne and Claude Mayrand), on a daily basis, trying to get these individuals to side with him, to influence their testimony before the investigator by reminding them of their sense of unity or by subtle threats of reprisals, occasionally accompanied by physical violence, such as “throwing chairs” and “punching the wall”, and by destroying Ms. X's reputation. Further, according to witnesses, Marcel Morissette revealed (both before and after the filing of the complaint) a myriad of personal details about Ms. X's private life. Marcel Morissette was so insistent that, according to their testimony, the employees did not want to come to work and work was not getting done.

Except for his son, all of Marcel Morissette's employees mentioned their fear of reprisal by Marcel Morissette following their testimony before the investigator.

It is my view that a supervisor who carries on as mentioned above is abusing his authority. It is not part of a supervisor's duties to try to influence the employees under his supervision when one of them files a complaint alleging sexual harassment, and even less to intimidate them. Nor is it part of his duties to reveal to his employees any information whatsoever about the private life of an employee, whether regarding

his or her health (physical or mental) or his or her personal life. When a complaint is filed, the superior has an obligation to allow the investigation to take its course without interfering in the process. He also has an obligation to respect the private lives of his employees. Marcel Morissette disregarded these obligations and was insubordinate when he disregarded a specific order from Dr. Deschênes (given orally before the investigation and in writing afterwards) (Exhibit E-1) prohibiting him “from showing, copying, distributing or discussing the attached documentation with the complainant, the employees under his supervision or his colleagues, on pain of additional disciplinary action”.

### Epilogue

While acknowledging Marcel Morissette’s competency, most of the witnesses commented on the relief they all felt with respect to Marcel Morissette’s departure. This relief is, in my opinion, proportional to the degree of control that he held over his employees and which the witnesses described in such detail.

It is my view that the factors that allowed Marcel Morissette to acquire this hold over his employees were as follows: the authority that his position gave him; the influence he held over the careers of his employees; the instability of the status of the employees; the isolation of the workplace; the ascendancy he held over his employees because of the strength of his personality and his competency; the lack of awareness of the employees of the recourse available in cases of sexual harassment; the individual differences in the reaction to his control and his abuse of authority; and in Ms. X’s case, her special psychological vulnerabilities and the depression she was experiencing both during the months preceding and at the time of the sexual relations.

Several witnesses, including Dr. Jacques Matte, who was called by Marcel Morissette, commented on Ms. X’s courage in filing her complaint. It is obvious that this whole case has been very costly for Ms. X. In addition, at the time of the last hearing, I was informed that her contract as a casual employee would not be renewed. In other words, after surviving all of the events related earlier, after filing a complaint, after testifying at the investigation and after testifying at this hearing, in the end, she lost her job.

Lastly, after twelve days of hearings, I have reached the same conclusion as the investigation firm, *Le Groupe J.L.*, and I find that Ms. X's complaint was founded.

During his testimony, Marcel Morissette showed himself to be an intelligent person, who expressed himself very well and who can conceptualize easily. I have no doubt that he understood the consequences of his actions. Neither the fact that he has no previous disciplinary record, nor his years of seniority, lessen the seriousness of his misconduct.

For no doubt complex reasons, he is not prepared to look at why he must at all costs deny his actions, and why he prefers to resort to the defence mechanism whereby it is everyone else who is wrong. His denial or his inability to assume any responsibility whatsoever means that he cannot be rehabilitated.

At the end of the hearing, Marcel Morissette's representative informed me that her client no longer wants to be reinstated in his position and that he wants only to have the decision regarding the termination of his employment rescinded, to be reimbursed for the compensation he would otherwise have received and for the related benefits he has been deprived of since the termination of his employment and any other compensation I might deem appropriate.

It is fortunate that he does not want to be reinstated in his position. I find that the employer has discharged the burden of proving that Marcel Morissette's misconduct warranted the termination of his employment and that there is no reason to overrule that decision. Accordingly, the grievance is denied.

**Marguerite-Marie Galipeau**  
**Deputy Chairperson**

OTTAWA, December 21, 1998.

Certified true translation

Serge Lareau

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## Appendix

### Appendix A Definitions

**Harassment** means any improper behaviour by a person employed in the Public Service that is directed at, and is offensive to, any employee of the Public Service and which that person knew or ought reasonably to have known would be unwelcome. It comprises objectionable conduct, comment or display made on either a one-time or continuous basis that demeans, belittles, or causes personal humiliation or embarrassment to an employee.

It includes harassment within the meaning of the Canadian Human Rights Act, i.e. harassment based on the following prohibited grounds of discrimination: race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability or conviction of an offence for which a pardon has been granted.

**Sexual harassment** means any conduct, comment, gesture or contact of a sexual nature, whether on a one-time basis or in a continuous series of incidents;

(a) that might reasonably be expected to cause offence or humiliation to any employee; or

(b) that the employee might reasonably perceive as placing a condition of a sexual nature on employment or on an opportunity for training or promotion.

**Abuse of authority** is a form of harassment and occurs when an individual improperly uses the power and authority inherent in his or her position to endanger an employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with, or influence the career of, the employee. It includes intimidation, threats, blackmail or coercion.

(Treasury Board Manual, Personnel Management, Chapter 3-2, Harassment in the Workplace Policy)

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[Translation] In general, sexual harassment in the workplace can be defined as any unwelcome behaviour of a sexual nature, verbal or physical, generally repeated, susceptible of having a negative impact on the victim's work environment, endangering his or her employment, or threatening the physical or psychological integrity of the person or his or her dignity.

(Drapeau, Maurice, *Le harcèlement sexuel au travail*, Les Éditions Yvon Blais Inc., 1991, p.86)

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*The forms of prohibited conduct that, in my view, are discriminatory run the gamut from overt gender based activity, such as coerced intercourse to unsolicited physical contact to persistent propositions to more subtle conduct such as gender based insults and taunting, which may reasonably be perceived to create a negative psychological and emotional work environment.*

(Janzen v. Platy Enterprises Ltd., [1989] 1. S.C.R. 1277)

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*Sexual harassment is any sexually-oriented practice that endangers an individual's continued employment, negatively affects his/her work performance, or undermines his/her sense of personal dignity. Harassment behaviour may manifest itself blatantly in forms such as leering, grabbing, and even sexual assault. More subtle forms of sexual harassment may include sexual innuendos, and propositions for dates or sexual favours.*

(Aggarwal, Arjun P., *Sexual Harassment in the Workplace*, Butterworths, 1987)

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