

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

MICHAEL JACK

Plaintiff

- and -

**ONTARIO PROVINCIAL POLICE AS REPRESENTED
BY THE MINISTRY OF COMMUNITY SAFETY AND
CORRECTIONAL SERVICES AND ITS EMPLOYEES
MARC GRAVELLE, JOHN POLLOCK, SHAUN
FILMAN, JENNIEFER PAYNE, JAMIE BROCKLEY,
MELYNDA MORAN, MARY D'AMICO, RICHARD NIE,
BRAD RATHBUN, ROBERT FLINDALL, PETER
BUTORAC, RONALD CAMPBELL, MIKE JOHNSTON,
CHRIS NEWTON, COLLEEN KOHEN, HUGH
STEVENSON AND MIKE ARMSTRONG**

**ONTARIO PROVINCIAL POLICE ASSOCIATION AND
ITS REPRESENTATIVES SHAUN FILMAN, KAREN
GERMAN, JIM STYLES AND MARTY MCNAMARA**

Defendants

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$ 0.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

REASONS FOR AMENDMENT

1. On December 21, 2012, the Plaintiff filed a Statement of Claim (Claim) via his representative Lloyd Tapp at the Superior Court of Justice in Toronto (**Tab 1** – Claim CV-12-470815).

2. The Claim was made out against the Ontario Provincial Police (OPP) and its employees as named in the Claim and against the Ontario Provincial Police Association (OPPA) and its representatives as named in the Claim.
3. In the Claim the Plaintiff seeks to be represented by his friend, Lloyd Tapp who is doing so freely and voluntarily.
4. The Plaintiff has indicated in his Claim that neither he nor his representative have had any experience in such an endeavour before the Superior Court of Justice but is prepared to face the challenges since he cannot afford legal counsel and cannot qualify for legal aid.
5. The Plaintiff genuinely believes that he has an action against the Ontario Provincial Police and its named employees and against the Ontario Provincial Police Association and its named representatives as well as against the Government of Ontario (Government).
6. However, in his filed Claim the Plaintiff erroneously identified the OPP as 'Her Majesty the Queen in Right of Ontario as represented by the Ministry of Community Safety and Correctional Services and operating as the Ontario Provincial Police' and in so doing unconsciously bound the Government as a defendant in the Claim.
7. The Plaintiff believed that the address that he used for the OPP was correct since he used the identical address that his counsel used in his application before the Human Rights Tribunal of Ontario (HRTO) before she vacated herself from the application (**Tab 2** – copy of HRTO application).

8. A request to have that application deferred pending a complete withdrawal should his Claim be allowed to proceed has been forwarded to the Tribunal (**Tab 3** – copy of request for order to have application differed).
9. On December 27, 2012, the Plaintiff served notice on the Government of Ontario regarding the Claim against the OPP and the OPPA (**Tab 4** – copy of notice with claim).
10. The notice, which was in the form of a letter stated that sixty days from then an amendment to the Claim would be filed at the Superior Court of Justice in Toronto officially binding and identifying the Government as a Defendant as per section 7 of the *Proceedings Against the Crown Act*.
11. On January 15, 2013, while preparing a reply to a motion from the OPPA Defendants the Plaintiff's representative, received a letter from counsel for the Government of Ontario dated January 14, 2013. The letter pointed out the error on the part of the Plaintiff but indicated that the Government of Ontario was prepared to accept the notice and copy of the Statement of Claim they received as a Notice of Claim under section 7 of the *Proceedings Against the Crown Act* (**Tab 5** – copy of letter from Crown).
12. As per the suggestion of counsel for the Government of Ontario, the Plaintiff is seeking an amendment to the information on file and the title of the proceedings in the filed Claim to reflect the correct identity of the OPP Corporate Defendant only as: Ontario Provincial Police as represented by the Ministry of Community Safety and Correctional Services.
13. The rest of title of the proceedings will remain the same after the wording: and its employees ...

14. In light of the need for the amendment the Plaintiff can indicate he does not believe that there is a need to withdraw the Claim because the identifying of the Government of Ontario was done so in error for he genuinely believed that he wasn't naming the Government and this genuine belief is reflected in item 176 on page 102 of the Claim.
15. Due to the error as mentioned the Plaintiff sees that is only appropriate that the Crown be afforded the full sixty days as per section 7 of the Proceedings Against the Crown Act and will delay the filing of a future amendment that will name and bind the Crown as a Defendant so as to reflect a period of sixty days fairly.
16. The Plaintiff can indicate that this future amendment to the title and information of the filed Claim that will bind the Crown as Defendant will be forthcoming on or about March the 29, 2013.

Date: Friday, December 21, 2012

Issued by:
Local Registrar

Address of court office:
393 University Avenue
10th Floor,
Toronto, ON. M5G 1E6

TO: Ontario Provincial Police as represented by the Ministry of
Community Safety and Correctional Services
c/o Chris Lewis
Commissioner for Ontario Provincial Police

777 Memorial Avenue
Orillia, ON L3V 7V3
Ph: 705-329-6725
Fax: 705-329-6600

AND TO: its employees: Marc Gravelle, John Pollock, Shaun Filman, Jennifer Payne, Jamie Brockley, Melynda Moran, Mary D'Amico, Richard Nie, Brad Rathbun, Robert Flindall, Peter Butorac

c/o Timothy Tachel
Staff Sergeant, Peterborough Detachment
453 Lansdowne Street East
Peterborough, ON K9J 6Z6
Ph: 705-742-0401

AND TO: its employees: Ronald Campbell, Mike Johnston, Chris Newton, Colleen Kohen, Hugh Stevenson, Mike Armstrong

c/o Chris Lewis
Commissioner, Ontario Provincial Police
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Orillia, ON L3V 7V3
Ph: 705-329-6725
Fax: 705-329-6600

AND TO: Ontario Provincial Police Association

c/o Jim Christie
President, Ontario Provincial Police Association
119 Ferris Lane
Barrie, ON L4M 2Y1
Ph: 705728-6161
Fax: 705-721-4867
Email: oppa@oppa.ca

AND TO: its representatives: Shaun Filman, Karen German, Jim Styles, Marty McNamara

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