

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Court File No.

FS 77/2007

BETWEEN:

QUINTIN CHAUSSE

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

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.

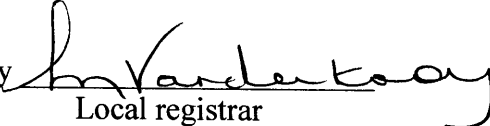
If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

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.

April 13, 2007

Issued by


Local registrar

55 Munsee Street
Cayuga, Ontario
N0A 1E0

TO: **HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**
Crown Law Office (Civil)
Attorney General of Ontario
8th Floor – 720 Bay Street
Toronto, Ontario
M5G 2K1

CLAIM

1. The Plaintiff claims:
 - (a) damages for wrongful arrest in the amount of \$100,000.00;
 - (b) general and aggravated damages for defamation in the sum of \$100,000.00;
 - (c) punitive damages in the sum of \$100,000.00;
 - (d) interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, s 128, as amended;
 - (e) his costs of this action on a substantial indemnity scale; and
 - (f) such further and other relief as this Honourable Court may deem just.
2. The Plaintiff resides at 226 Kinross Street in Caledonia which is within the County of Haldimand in the Province of Ontario. The Plaintiff resides at this address with his wife and two small children.
3. The Plaintiff is a life insurance agent who sells life insurance and other financial products on behalf of a large fraternal organization.
4. On February 28, 2006 a group of protesters occupied a parcel of property in Caledonia that had been registered as a Plan of Subdivision known as the Douglas Creek Estates.
5. The owner of the Douglas Creek Estates was at that time Henco Industries Limited (“Henco”).

6. The Douglas Creek Estates is comprised of approximately 72 lots in Phase I and several other blocks reserved for future development of approximately 650 new residential homes. It also comprises of 4 proposed highways to be dedicated to Haldimand County.
7. The Plaintiff and his family live very close to the Douglas Creek Estates. Kinross Street runs perpendicular to Thistlemoor Street which borders on the Douglas Creek Estate. Their family home is approximately 110m from the Douglas Creek Estates.
8. On March 3, 2006 Henco brought an application to the Superior Court of Ontario at Cayuga seeking an interim and permanent injunction restraining the protestors from interfering with Henco or its employees or agents and a mandatory order requiring any peace officer of the Ontario Provincial Police (“OPP”) to remove any person who refused the request of the Sheriff to obey the interim injunction.
9. On March 3, 2006, Mr. Justice Matheson, issued an interim injunction and mandatory order requiring the OPP to remove any protestors that interfered with Henco.
10. On March 9, 2006, Justice T. Marshall issued an Order making permanent the injunctions ordered by Justice B. Matheson on March 3, 2006.
11. From March 6, 2006 to April 20, 2006, the OPP took no steps to enforce the injunction and mandatory orders of Justices Matheson and Marshall.
12. On April 20, 2006, the OPP attended at Douglas Creek Estates and arrested 16 of the protestors. The protestors were fingerprinted and released. Within hours many of the protestors were back at the Douglas Creek Estates.

13. Aside from the attendance on April 20, 2006, the OPP has taken no further steps to remove the protestors from the Douglas Creek Estates.
14. As a result of the attendance on April 20, 2006, the following events occurred:
 - (a) the protestors barricaded Argyle Street and prevented any public passage or traffic from running north or south, this barricade was in place until May 24, 2006, when the road was again opened for public passage;
 - (b) the protestors piled tires on Argyle Street, poured gasoline on the tires, and set fire to them;
 - (c) the protestors set fire to and completely destroyed the wooden bridge on Sterling Street that passes over the CN rail line;
 - (d) the protestors started a brush fire on the southern shore of the Grand River;
 - (f) the protestors placed barricades on Highway 6 between Argyle Street and Green Road preventing public passage or traffic from passing either north or south on Highway 6, this barricade was in place until June 13, 2006, when the highway was again opened for public passage;
 - (g) the protestors threw a vehicle over the barrier of the Highway 6 overpass which landed on Municipal Highway 54; and
 - (h) the protestors recklessly drove ATV vehicles in a dangerous manner throughout the Douglas Creek Estates and along adjoining property, which included the grade school, Notre Dame School, where the Plaintiff's children attend school.

15. On May 22, 2006, control systems at the hydro transformer station located on Argyle Street South, just south of the protestors' barricade, were purposefully set on fire and destroyed, causing over \$1 million in damages and power failure throughout Haldimand County and Norfolk County for periods of time ranging from 3 to 48 hours. The Plaintiff's household was without power for 48 hours and they lost over \$500.00 of foodstuffs.
16. To the Plaintiff's knowledge, no one has been arrested, and no one has been charged, with respect to any of the incidents referred to paragraphs 14 and 15 above, even though they took place in plain sight of many witnesses, including police officers.
17. On May 22, 2006, and on one other day which followed, Notre Dame School was forced to close, and the Plaintiff's children were unable to attend school, because of concern on the part of the school board with respect to the disturbing events that were taking place in the vicinity.
18. On June 4, 2006, the Plaintiff was physically assaulted outside of his home by one of the protestors, Kenneth Hill, who was subsequently charged with assault.
19. The role of the OPP in these events, and criticism of their lack of enforcement, has become a major national issue. It has received coverage on CBC and CTV national broadcasts and it has been reported in the *Globe and Mail*, the *National Post* and the *Toronto Star*. It continues to be a major issue of public debate within the Haldimand, Norfolk and Hamilton areas and it continues to be extensively discussed in the local print and radio media.
20. On Saturday, December 2, 2006, the Plaintiff, along with other residents of Caledonia attempted to put up Canadian flags on hydro poles along Argyle Street near the Douglas Creek Estates. There were many flags that had been placed along Argyle Street that displayed the 'Warrior Society' symbol. At no time was

the Plaintiff doing anything other than holding a Canadian flag on a public thoroughfare.

21. The Plaintiff was prevented from putting the flag up by several unidentified OPP officers. The Plaintiff was grabbed by unidentified OPP officers, handcuffed, thrown into a holding vehicle and relieved of his personal possessions.
22. At no time, despite repeated requests by the Plaintiff, did any of the arresting officers identify to the Plaintiff for what offence he was being held.
23. One of the officers, who appeared to be in charge, told the Plaintiff that the police had received a telephone call from the Caledonia Baptist Church suggesting that the Plaintiff, among others, was trespassing on their property, but the Plaintiff subsequently contacted the minister of the church and was advised that, to his knowledge, no such call had been made on behalf of the church.
24. The Plaintiff was taken, without his consent, to the OPP Cayuga Detachment Office in Cayuga, Ontario, a 30-minute drive from Caledonia, where he was held, against his will, for a period of more than 2 hours.
25. At no time, prior to or during his arrest or during his subsequent detention was the Plaintiff ever informed of the offence for which he was being arrested or held.
26. The Plaintiff was not given any ticket, information, summons or any other document in any form that would have indicated to him what offence he had committed.
27. On Sunday, December 3, 2006, two OPP Sergeants, Bernie Cowan and Jim Muskola, appeared at the Plaintiff's home. They told the Plaintiff, in the presence of his wife, that, on behalf of the OPP, they were sorry for what had happened the previous day and that it never should have happened.

28. On December 2, 2006 the Media Relations Unit of the OPP, issued a news release. The news release contains the following passage:

“... there are persons that attempted to disrupt a difficult and fragile process. These individuals created an atmosphere that jeopardized the safety of our communities. As a result one male was arrested for Trespassing. These persons need to be reminded that there is a peace process underway and their actions had serious implications not only on the peaceful negotiations, but well being of residents in the area.”

29. On December 3, 2006, Media Relations Unit of the OPP issued another news release. The December 3, 2006 news release contains the following passages:

“Caledonia ON – the O.P.P. once again had their hands busy this weekend dealing with a handful of residents who decided to jeopardize the fragile peace established in Caledonia. Two residents, using the motive of ‘Supporting Our Troops’ decided to taunt the First Nations Occupiers on the Douglas Creek Site by encouraging others in attempting to erect Canadian Flags adjacent to the site.

Despite warnings from police that these actions were juvenile and could potentially put the community at risk, these self-serving individuals continued with their plans and by doing so ramped up tensions in the Community. ...”

* * *

“As a result of the incident on Saturday one male party was arrested for Trespassing and released unconditionally. The male party, clearly frustrated with the ongoing occupation expressed regret for his action to police. ...”

* * *

“The O.P.P. will not tolerate the actions of those willing to put their own self-motivated agendas ahead of the betterment of the community. The O.P.P. remains committed to keeping the peace and wish to remind everyone that there will be serious consequences for these types of selfish and juvenile actions.”

30. Although the Plaintiff is not identified in either of the December 2, 2006 or December 3, 2006 news releases, the Plaintiff states that it would be clear to any

resident of Caledonia who knew of the incident that the individual referred to in the releases was the Plaintiff since he was the only person arrested on that day, in front of numerous witnesses who were residents of Caledonia.

31. The Plaintiff states that these passages, including and in particular the following statements:

- (a) that the Plaintiff “created an atmosphere that jeopardized the safety of the community”;
- (b) that the Plaintiff was arrested for trespass;
- (c) that the Plaintiff’s actions had “serious implications” on the “well being of residents in the area”;
- (d) that the Plaintiff “decided” to taunt the First Nations Occupiers and encouraged others to do so;
- (e) that the Plaintiff’s actions were somehow “self-serving”;
- (f) that the Plaintiff expressed regret for, and regretted his actions; and
- (g) that Plaintiff’s actions were “selfish and juvenile”;

are false and defamatory.

32. The Plaintiff states that the news releases were made maliciously by those who composed the releases and those who authorized their publication, and that they were intended, and have been used by critics of his endeavours, to demean and damage his reputation and diminish his credibility in the community.

33. The Plaintiff states that the news releases amount to a serious libel against the Plaintiff, a libel that was subsequently published in *The Regional News* and *The Grand River Sachem*. In addition, these news releases have been published verbatim on the Haldimand County website (www.haldimandcounty.on.ca).
34. On December 12, 2006, the firm of Findlay McCarthy LLP, solicitors for the Plaintiff, by letter, gave notice to the Media Relations Unit of the OPP of the libel and requested that they provide an apology to the Plaintiff and that if they failed to do so the Plaintiff intended to seek further remedies.
35. On January 12, 2007, the firm of Findlay McCarthy LLP wrote and personally served a letter on Inspector David McLean of the OPP at the Cayuga Detachment Offices indicating that the Plaintiff was serving a formal notice under s. 5 of the *Libel and Slander Act*, with respect to the statements made in the news releases dated December 2, 2006 and December 3, 2006 and requesting a formal apology to the Plaintiff for the statements made. The letter was also provided to, and service was accepted by, a solicitor in the Crown Law Office (Civil Law) of the Attorney General of Ontario.
36. No one on behalf of the OPP or Her Majesty the Queen in right of Ontario has provided an apology to the Plaintiff.
37. On February 8, 2007, Findlay McCarthy LLP, the solicitors for the Plaintiff, gave formal written notice to a solicitor of the Crown Law Office (Civil Law) of the Attorney General of Ontario, in accordance with the provisions of s. 7 of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27, of the Plaintiff's intention to commence an action against the Defendant.
38. The Plaintiff pleads and relies upon s. 5 of the *Proceedings Against the Crown Act* that the Defendant is responsible in respect of torts committed by any of its servants and agents.

39. The Defendant, or its servants or agents, have further aggravated the damages caused to the Plaintiff by:
- (a) publishing the libel maliciously and in bad faith, with knowledge that it was false, or with reckless disregard for its truth or falsity;
 - (b) taking no steps prior to the publication of the words to contact the Plaintiff to provide him with an opportunity to respond to the statements to be published; and
 - (c) published the libel in a tone of language intended to discredit and belittle the Plaintiff.
40. The Plaintiff pleads that he is entitled to punitive damages from the Defendants, its servants or agents, on the grounds that they have displayed high-handed and oppressive conduct in the following manner:
- (a) despite representatives of the OPP privately apologizing to the Plaintiff and his wife, the OPP has not confirmed publicly that this apology had taken place and have refused to publicly apologize to the Plaintiff; and
 - (b) the Defendant took no steps to apologize or otherwise remedy the damages caused to the Plaintiff during the 60 day notice period that the Plaintiff was required to give under the *Proceedings Against the Crown Act*.

April 13, 2007

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Solicitors for the Plaintiff

Court File No.

FS 77/2007

CHAUSSE

Plaintiff

v.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

ONTARIO

SUPERIOR COURT OF JUSTICE

Action Commenced in Cayuga

STATEMENT OF CLAIM

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