

\$12M Lawsuit: Misfeasance in Public Office

Sept. 23, 2007

CaledoniaWakeUpCall and VoiceofCanada have obtained a copy of the Statement of Claim for a \$12Million lawsuit against Gwen Boniface, Julian Fantino, Brian Haggith and the Province of Ontario by Caledonia residents Dave Brown and Dana Chatwell.

We cannot find a better way to say what the lawyer has already stated below:

Misfeasance in Public Office

113. The agreement by the Minister of Aboriginal Affairs made with the native protestors and the Haudenosaunee Six Nations Confederacy and Council on or about April 21, 2006, not to proceed any further with any criminal charges arising from the raid by the O.P.P. on April 20, 2006 is outside of his authority and improperly interferes with the lawful duties of police officers of the O.P.P., the duties of Commissioner Boniface, Commissioner Fantino, and Inspector Haggith and the duties and obligations of the Attorney General of Ontario and constitutes misfeasance in public office.

114. The Plaintiffs plead that the agreement made by the Minister of Aboriginal Affairs was made with the knowledge and acquiescence of the Attorney General of Ontario and that such acquiescence constitutes a violation of s. 5(b) of the Ministry of the Attorney General Act, R.S.O. 1990, c. M.17, as an administration of public affairs that is contrary to law and constitutes misfeasance in public office.

115. Under s. 3(2) of the Police Services Act, the Solicitor General for Ontario, no the Minister of Community Safety and Correctional Services, has a duty to ensure that adequate and effective police services are provided at the municipal and provincial levels. The Minister has failed to ensure that the O.P.P. has sufficient police services to carry out the following:

- a. the enforcement of the Orders of Justice Barry H. Matheson dated March 3, 2006 and the Orders of Justice T. David Marshall dated March 9, 17 and 28, 2006;
- b. to ensure that Argyle Street south was free of nuisance and open for passage; and
- c. protect the Plaintiffs.

116. The written undertaking given by the Minister of Community Safety and Correctional Services to the native protestors and the Haudenosaunee Six Nations Confederacy and Council on May 3, 2006 not to ask the federal government to provide military support to the O.P.P. at Douglas Creek Estates was in excess of his authority as Minister of Community Safety and Correctional Services and was a wrongful interference with the lawful duties of Commissioners Boniface and Fantino and Inspector Haggith and constitutes misfeasance in public office.

117. The Minister of Aboriginal Affairs, the Minister of Community Safety and Correctional Services and the Attorney General must carry out their duties within the authority provided to them by their governing legislation.

118. The Plaintiffs plead that the O.P.P., Commissioners Boniface and Fantino, and Inspector Haggith have not exercised their discretion but have abdicated their responsibilities and duties and have simply complied with the direction of politicians, of native protestors and of the Haudenosaunee Six Nations Confederacy Council or other native groups.

119. The Minister of Community Safety and Correctional Services, the Minister of Aboriginal Affairs, the Attorney General, and the O.P.P. engaged in a course of conduct which actively protected and condoned unlawful and criminal conduct and activity of the protestors and failed to protect the rights of the Plaintiffs as citizens of Canada, Ontario and Haldimand County, denying the Plaintiffs the equal protection that they are entitled to under the law in a free and democratic society. Said conduct constitutes misfeasance in public office.

120. The installation of the surveillance camera in the kitchen of the Residence, the deliberate misrepresentation with respect to the installation of surveillance cameras by the O.P.P. and the O.P.P. misleading the Plaintiffs in order to obtain the Plaintiff's keys to the Residence constitute an abuse of public office and misfeasance in public office by the O.P.P.

121. The conduct of Commissioner Boniface, Commissioner Fantino, Inspector Haggith, the Minister of Aboriginal Affairs, the Minister of Community Safety and Correctional Services, the Attorney General, and the O.P.P. as pleaded herein was deliberate conduct in the capacity as public officers which was known to them to be inconsistent with the obligations of their office and which constituted a breach of statutory provisions for improper purposes or motives. The improper purposes or motives include political gain, designing and implementing plans for police work which protects unlawful conduct, a desire to see the Plaintiffs removed from the area of Douglas Creek Estates, and because the Plaintiffs refused to comply with the desires and wishes of the said public officers, among other things.

122. Commissioner Boniface, Commissioner Fantino, Inspector Haggith, the Minister of Aboriginal Affairs, the Minister of Community Safety and Correctional Services, and the Attorney General and the officers of the O.P.P. were aware that their conduct was likely to harm the Plaintiffs. They acted with conscious disregard for the Plaintiffs and their conduct contributed to the damages suffered by the Plaintiffs.

123. Pursuant to the Proceedings Against the Crown Act, Her Majesty the Queen in Right of Ontario is liable for the torts committed by her servants and agents as described herein.

Allegations contained in the Statement of Claim have not been proven in court.