

Court File No.

07-CV-32943/PD 2

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

22 OPP Officers

Plaintiffs

- and -

GARY MCHALE

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. 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 plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, 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.

(a) McHale published the December 3rd Defamatory Publication, in substantially similar format to the July Defamatory Publication: clear photographs of OPP Officers whose identity are easily ascertained from the photographs, with defamatory statements accompanying the photographs; and

(b) McHale published the December 9th Defamatory Publication.

23. On or about December 21, 2006, the Plaintiffs served McHale with a Libel Notice in relation to the December 3rd Defamatory Publication and the December 9th Defamatory Publication ("December Libel Notice"). The Plaintiffs demanded that the December 3rd Defamatory Publication and the December 9th Defamatory Publication be removed from the Website and that McHale cease and desist from further such publications.

24. In response to the December Libel Notice, McHale did not remove the Defamatory Publication. Instead, he posted the December Libel Notice on the Website, thereby repeating and aggravating the libel.

25. On or around December 16, 2006, McHale further aggravated and expanded the libel by publishing the December 16th Defamatory Publication which included additional photographs of OPP officers, including the Plaintiffs listed in paragraph 8 above.

26. The Plaintiffs served a further Libel Notice on McHale on January 25, 2007.

27. To date, McHale has not published an apology.

Damages

28. As a result of the Defamatory Publications, the Plaintiffs have and will continue to suffer damage and harm to their reputations personally and in their profession as police officers.

29. The malicious, high-handed and arrogant conduct of the Defendant warrants an award of punitive damages.

March 13, 2007

**PALIARE ROLAND ROSENBERG
ROTHSTEIN LLP**

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Solicitors for the Plaintiffs

Court File No.:

07-CV-32943(PD)2

STEVEN LORCH, WILLIAM BITTNER, et al

Plaintiffs

- and -

GARY MCHALE

Defendant

**ONTARIO
SUPERIOR COURT OF JUSTICE**
Proceeding commenced at TORONTO

*Service of a true copy hereof admitted
this.....day of.....20.....*

.....
SOLICITOR FOR

STATEMENT OF CLAIM

**PALIARE ROLAND ROSENBERG
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Solicitors for the Plaintiffs

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.

Date March 13, 2007

Issued by 
Local Registrar

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

TO: GARY MCHALE
Owner of Caledonia Wake Up Call.com
612-30 Harding Blvd. W.
Richmond Hill, ON L4C 9M3

CLAIM**1. Each Plaintiff claims:**

- (a) An Order directing the Defendant to cease and desist in the publication of false and injurious communications concerning the Plaintiffs that have appeared on his website, www.caledoniawakeupcall.com and on the website www.marchforfreedom.com and elsewhere on the world wide web;**
- (b) General damages for defamation in the amount of \$250,000, aggregating \$5,500,000 in general damages for all of the Plaintiffs;**
- (c) Punitive damages in the amount of \$75,000, aggregating \$1,650,000 in punitive damages for all of the Plaintiffs;**
- (d) Pre-judgment interest and post-judgment interest in accordance with the *Courts of Justice Act*;**
- (e) Costs of this action on a substantial indemnity scale; and**
- (f) Such further and other relief as may seem just.**

2. The Plaintiffs are individuals ordinarily resident in the province of Ontario. Each Plaintiff is a member of the Ontario Provincial Police force.

3. Each Plaintiff, in his or her capacity as an OPP Officer, has been on duty in Caledonia, Ontario at the location of an on-going land claim dispute (the "Caledonia Dispute").

4. The Defendant ("Defendant" or "McHale") is an individual ordinarily resident in Richmond Hill, Ontario. From time to time, McHale attends at the Caledonia Dispute in opposition to Aboriginal protestors.

5. McHale owns, operates and publishes content on the website www.caledoniawakeupcall.com (the "Website"). In addition, McHale publishes content on other websites including www.marchforfreedom.com.

December 3rd Defamatory Publication

6. On or around December 3, 2006, McHale published on his Website under the heading "OPP: Hang Your Heads in Shame Dec. 3, 2006" statements and photographs of and concerning the following Plaintiffs, which are false and defamatory of them (the "December 3rd Defamatory Publication"):

- (a) Police Constable [REDACTED];
- (b) Police Constable [REDACTED];
- (c) Police Constable [REDACTED];
- (d) Police Constable [REDACTED];
- (e) Police Constable [REDACTED];
- (f) Police Constable [REDACTED];
- (g) Police Constable [REDACTED];

- (h) Police Constable [REDACTED];
- (i) Police Constable [REDACTED];
- (j) Police Constable [REDACTED];
- (k) Police Constable [REDACTED];
- (l) Sergeant [REDACTED];
- (m) Police Constable [REDACTED]; and
- (n) Police Constable [REDACTED].

7. The December 3rd Defamatory Publication was published on the internet under the URL <http://www.caledoniawakeupcall.com/opp/flags.html>. McHale published it maliciously and with intent to harm the reputations of the Plaintiffs whose photographs appear therein.

December 16th Defamatory Publication

8. On or around December 16, 2006, McHale published on his Website under the heading "OPP: Hang Your Heads in Shame Dec 16, 2006" statements and photographs of and concerning the following Plaintiffs, which are false and defamatory of them (the "December 16th Defamatory Publication"):

- (a) Police Constable [REDACTED];
- (b) Police Constable [REDACTED];
- (c) Police Constable [REDACTED];
- (d) Police Constable [REDACTED];
- (e) Police Constable [REDACTED];
- (f) Police Constable [REDACTED];

- (g) Police Constable [REDACTED];
- (h) Police Constable [REDACTED];
- (i) Police Constable [REDACTED];
- (j) Police Constable [REDACTED];
- (k) Police Constable [REDACTED];
- (l) Sergeant [REDACTED];
- (m) Police Constable [REDACTED]; and
- (n) Police Constable [REDACTED].

9. The December 16th Defamatory Publication was published on the internet under the URL <http://www.caledoniawakeupcall.com/opp/flags2.html>. McHale published it maliciously and with intent to harm the reputations of the Plaintiffs whose photographs appear therein.

The Defamatory Statements

10. Each of the December 3rd Defamatory Publication and the December 16th Defamatory Publication was posted on the Website under the heading "OPP: Hang Your Heads in Shame". The heading was published in large red font, specifically designed by McHale to draw particular attention to the Defamatory Publications. The heading was false and defamatory of the Plaintiffs and linked readers to photographs of the Plaintiffs and further defamatory text of and concerning them.

11. The December 3rd Defamatory Publication and the December 16th Defamatory Publication, including the photographs and accompanying text, read in their entirety, are

defamatory of the Plaintiffs. The defamatory statements are:

- (a) "OPP: Hang Your Heads in Shame"
- (b) "Each and every one of these officers knows that their orders are based on Racial Discrimination."
- (c) "We have all seen OPP officers stand by while seniors were attacked, while camera crews were attacked and yes even when fellow officers were about to be murdered. What does it take to have officers who swear an oath to be impartial, to uphold the law and then function on a daily basis solely on racial profiling? Well, I am sure each of these officers could justify their discrimination, their open violation of Canadians' Charter Rights".
- (d) "The continuous breach of their Oath of Office, their willingness to violate Canadians' Charter Rights, their willingness to discriminate against a group of people must stop."
- (e) "Each and everyone one of these Officers are GUILTY of violating their Oath of Office and their sworn duty to the public" [sic].

12. The Defendant published the defamatory statements quoted in subparagraphs (a) and (e) above in red font, in order to draw particular attention to them.

13. The statements outlined above, in their plain and ordinary meaning, both expressly and by way of necessary inference, were meant and understood to mean that each officer depicted in the photographs, including each Plaintiff herein, personally and in his or her profession as a police officer:

- (a) violated his/her oath of office;
- (b) is guilty of misconduct as a police officer;
- (c) stood by without intervening while seniors were attacked and/or when police officers were about to be murdered;
- (d) have been charged with violating his/her oath of office

- (e) have been found guilty of violating his/her oath of office;
- (f) violated the Canadian Charter of Rights and Freedoms; and/or
- (g) is personally performing his/her duties as police officers in a racist manner.

Further Defamation of Steven Lorch

14. On or around December 9, 2006, McHale published a photograph of Police Constable Lorch with a quotation attributed to Police Constable [REDACTED] (the "December 9th Defamatory Publication"). McHale published the December 9th Defamatory Publication on (i) the Website and (ii) another website www.marchforfreedom.com. McHale is responsible for the publication of the December 9th Defamatory Publication on the website www.marchforfreedom.com.

15. The photograph in the December 9th Defamatory Publication depicts Police Constable [REDACTED] in a scene that did not occur. The photograph has been manipulated to depict Police Constable [REDACTED] between an Aboriginal man and a non-Aboriginal man. A quotation is attributed to Police Constable [REDACTED] as follows:

You Caledonians are so juvenile! Why can't you just let this nice native man take this Canadian Flag. We at the OPP have learned to love the natives. Now Johnny go home and I hope you learned your lesson that only natives can deface public property and break Canadian laws.

16. Police Constable [REDACTED] did not utter the words attributed to him in the December 9th Defamatory Publication.

17. The December 9th Defamatory Publication is false, was published maliciously, and is defamatory of [REDACTED].

18. The December 9th Defamatory Publication in its plain and ordinary meaning, both expressly and by way of necessary inference, was meant and understood to mean that that Steven Lorch, personally and in his profession as a Police Officer:

- (a) Uttered the words attributed to him on the Website as quoted above;
- (b) Personally performs his duties as a police officer in a racist manner.

McHale Published the Defamatory Publications With Actual Malice

19. McHale published each of the December 3rd, 9th and 16th Defamatory Publications with actual malice.

20. In July 2006, McHale published on his Website 13 photographs of OPP Officers under the heading "WANTED: The return of your pay for services not rendered. These OPP officers stood by while criminal acts were committed" (the "July Defamatory Posting").

21. McHale was served with a Libel Notice on or around July 17, 2006 ("July Libel Notice") demanding the removal of the July Defamatory Publication. McHale immediately posted the July Libel Notice on the Website, thereby repeating and aggravating the libel. Ultimately, McHale removed the July Defamatory Posting and the July Libel Notice from the Website.

22. However, less than 5 months later: