

Form 3-9

(Rule 3-9)

COURT FILE
NUMBER

Q.B. No.

1245

of A.D. 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE

SASKATOON

PLAINTIFFS

DEBBIE BAPTISTE, JACE TROY BOUSHIE,
BOYBLUE BOUSHIE

DEFENDANTS

THE ATTORNEY GENERAL OF CANADA,
CORPORAL JASON OLNEY, CORPORAL MELVIN
SANSOME, CONSTABLE CHAD DOUCETTE,
CONSTABLE LAURA COCKRUM, CONSTABLE
MICHELLE AHLERS, CONSTABLE JUSTIN
BLACKLOCK, and SERGEANT BRENT OLBERG

NOTICE TO DEFENDANTS

1 The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The Queen's Bench Rules* unless, in accordance with paragraph 2, you:

- (a) serve a Statement of Defence on the plaintiff; and
- (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.

2 The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):

- (a) 20 days if you were served in Saskatchewan;
- (b) 30 days if you were served elsewhere in Canada or in the United States of America;
- (c) 40 days if you were served outside Canada and the United States of America.

3 In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.

4 This Statement of Claim is to be served within 6 months from the date on which it is issued.

5 This Statement of Claim is issued at the above-named judicial centre on the 8TH day of August, 2018.

Court Seal

R. ROBERTSON
DEPUTY LOCAL REGISTRAR

Local Registrar

STATEMENT OF CLAIM

The Parties

1 The Plaintiff Debbie Baptiste (“Debbie”) is a resident of Red Pheasant First Nation in the Province of Saskatchewan. She is the mother of the late Colten Boushie (“Colten”), who died of a gunshot wound to the head on August 9, 2016.

2 The Plaintiff Jace Troy Boushie (“Jace”) is a resident of Red Pheasant First Nation in the Province of Saskatchewan. He is Colten’s brother.

3 The Plaintiff Boyblue Boushie (“Boyblue”) is a resident of Red Pheasant First Nation in the Province of Saskatchewan. He is Colten’s brother.

4 The Defendant the Attorney General of Canada (“Attorney General”) represents Her Majesty the Queen in Right of Canada (“the Queen”) and is named as a defendant pursuant to section 23 of the *Crown Liability and Proceedings Act*, R.S.C. 1985, Ch. C-50. The Attorney General is vicariously liable for the actions of its Crown servants, including employed members of the Royal Canadian Mounted Police (“RCMP”), which is established pursuant to the *Royal Canadian Mounted Police Act*, R.S.C. 1985, Ch. R-10 (“RCMP Act”).

5 The Defendant Corporal Jason Olney (“Cpl. Olney”) was, at all material times, a peace officer and an employed member of the RCMP.

6 The Defendant Corporal Melvin Sansome (“Cpl. Sansome”) was, at all material times, a peace officer and an employed member of the RCMP.

7 The Defendant Constable Chad Doucette (“Cst. Doucette”) was, at all material times, a peace officer and an employed member of the RCMP.

8 The Defendant Constable Laura Cockrum (“Cst. Cockrum”) was, at all material times, a police officer and an employed member of the RCMP.

9 The Defendant Constable Michelle Ahlers ("Cst. Ahlers") was, at all material times, a peace officer and an employed member of the RCMP.

10 The Defendant Constable Justin Blacklock ("Cst. Blacklock") was, at all material times, a police officer and an employed member of the RCMP.

11 The Defendant Sergeant Brent Olberg ("Sgt. Olberg") was, at all material times, a peace officer and an employed member of the RCMP.

Facts

The Death of Colten Boushie and the Arrests of His Friends

12 On August 9, 2016 at approximately 5:30 p.m., on his farm in the Rural Municipality of Glenside, in the Province of Saskatchewan ("Farm"), Gerald Stanley shot Colten Boushie in the back of the head with a handgun. Colten Boushie, who was seated inside a Ford Escape motor vehicle ("Escape"), died almost instantly.

13 When Mr. Stanley shot Colten there were two other occupants of the Escape: Kiora Wuttunee and Belinda Jackson.

14 Moments before Colten was shot, there had been two other male occupants of the Escape: Eric Meechance and Cassidy Cross-Whitstone ("Mr. Cross"). Messieurs Meechance and Cross had been attempting to run away from Mr. Stanley and to get off the Farm when Mr. Stanley's handgun discharged for the final time.

15 Ultimately, Messieurs Meechance and Cross successfully made it off the Farm. While fleeing the Farm, both Mr. Meechance and Mr. Cross were unarmed.

16 Shortly after Colten died, Mr. Stanley's son Sheldon Stanley ("Sheldon") called 911 and spoke to an RCMP dispatcher and then to an RCMP member, advising that five people had

come onto the Farm, that Colten had been shot and killed, and that two males and two females had left the Farm on foot.

17 Sheldon did not tell the RCMP that either of the two males who had left the Farm on foot were armed.

18 Constable Andrew Park of the RCMP was dispatched immediately to the Farm and, upon his attendance near the Farm, observed Ms. Wuttunee and Ms. Jackson and arrested both women for the criminal offence of mischief. Neither Ms. Wuttunee nor Ms. Jackson possessed any weapons upon arrest.

19 Within an hour of Colten's death, Mr. Meechance was arrested by an RCMP member for theft-related offences. Upon his arrest, Mr. Meechance, too, did not possess any weapons.

20 Members of the RCMP did not locate Mr. Cross by the Farm.

21 No member of the RCMP had any reason to suspect that Mr. Cross possessed a weapon at any time after he had escaped from the Farm.

22 Indeed, by approximately 10:00 p.m. on August 9, 2016, no member of the RCMP had any reason to suspect that Mr. Cross was at the home of Debbie, Jace and Boyblue.

The Unlawful Entry Into, and Search Of, Debbie, Jace, and Boyblue's Home

23 At approximately 10:00 p.m. on August 9, 2016, Debbie, Jace, Boyblue and his two young sons (Elijah Boushie ("Elijah") and Jayden Boushie ("Jayden")) were in Trailer 555 ("Home") on Red Pheasant First Nation. The family had finished eating dinner and Elijah and Jayden had been put to sleep in one of the Home's three bedrooms.

24 Debbie and William were watching television, while Jace was in one of the Home's other bedrooms.

25 Colten's dinner was waiting for him in the microwave, where his mother Debbie had placed it for safekeeping.

26 Suddenly, and without warning, approximately six RCMP vehicles travelling at a high rate of speed arrived at the Home and completely surrounded it. More than one of the spotlights on the RCMP vehicles were directed at various portions on the Home.

27 The Defendants Cpl. Olney, Cpl. Samsome, Cst. Doucette, Cst. Cockrum, Cst. Ahlers and Cst. Blacklock and other yet to be identified RCMP members (collectively the "Search Officers"), quickly exited their respective RCMP vehicles. Some of the Search Officers had their sidearms drawn; some of the officers had long guns drawn.

28 However, none of the Search Officers was armed with a warrant to search the Home. This was because the RCMP did not have any evidence upon which any RCMP member could swear an Information to Obtain a search warrant for the Home.

29 Nevertheless, the RCMP members descended upon the Home as though they were executing a tactical military mission. Indeed, Search Officers were at the Home for the purpose of searching it and were acting under the unlawful order of the Defendant Sgt. Olberg – or, alternatively, the order of an RCMP member yet to be identified – to conduct a warrantless search of the Home.

30 Further, as each of the Search Officers approached the home, each subjectively believed that he/she did not have reasonable grounds even to suspect that Mr. Cross was present in the Home. As such, each RCMP member subjectively believed that exigent circumstances did not exist for any of the RCMP members to enter the Home and to search the Home without a search warrant.

31 The Search Officers initially searched the exterior of the Home and then searched underneath the Home with flashlights. This perimeter search was unlawful.

32 Approximately four of the Search Officers then quickly approached the front entrance of the Home.

33 By the time the RCMP members announced their presence, Debbie and Boyblue had seen the deployment of the Search Officers and – terrified – had both yelled out to Jace.

34 Debbie went to the Home's front entrance, opened the door, and stepped outside her Home onto the front porch. One of the Search Officers, who did not identify himself, told Debbie that Colten had been shot and that he was dead.

35 Having heard the news of her son's death, Debbie fell onto the porch and screamed. While Debbie was still outside her Home, approximately four of the Search Officers entered her Home with their sidearms drawn.

36 At no point did any of the Search Officers ask for the consent of Debbie, Jace, or Boyblue to enter the Home, and at no point did Debbie, Jace, or Boyblue provide their consent.

37 At no point did any of the Search Officers ask for the consent of Debbie, Jace, or Boyblue to search the Home, and at no point did Debbie, Jace, or Boyblue provide their consent.

38 Alternatively, if Debbie, Jace or Boyblue did provide their consent to the Search Officers to enter and search the home, the consent provided was not informed consent.

39 Then the approximately four Search Officers who were unlawfully inside the Home systematically searched the entire Home. During the search of the Home, the RCMP members woke up and frightened Elijah and Jayden. Further, while conducting the search of the Home, multiple RCMP members asked Jace and Boyblue about the location of Mr. Cross.

40 As Mr. Cross had not been at the Home on the evening of August 9, 2016, Debbie, Jace and Boyblue did not know Mr. Cross' whereabouts.

41 Although Debbie was inconsolable, either the Defendant Cst. Cockrum, or the Defendant Cst. Ahlers, began questioning Debbie about Colten's whereabouts earlier in the day. When – through her sobs – Debbie responded that she was awaiting Colten's arrival and that his dinner was in the microwave, either Cst. Cockrum or Cst. Ahlers walked over to the microwave and searched the microwave. The police officer's unlawful search uncovered Colten's dinner.

42 After the passing of approximately five minutes, Debbie was still on the ground. One of the male Search Officers approached her, grabbed her by the wrist, and told Debbie to get herself together.

43 Then two of the Search Officers asked Debbie, Jace and Boyblue whether they had been consuming alcohol that evening. When Debbie responded that she had not been drinking, one of the male Search Officers leaned in and smelled her breath.

44 Then, as quickly as the Search Officers had arrived, they left the Home.

45 Contrary to the policies and procedures of the RCMP, the Search Officers did not offer to provide Debbie, Jace, or Boyblue with any counselling services or medical services.

RCMP Legislation

The RCMP Act

46 At all material times, the individual Defendants were members of the RCMP and were subject to the RCMP Act.

47 Section 18 of the RCMP Act prescribes the following duties to its members:

It is the duty of members who are peace officers, subject to the orders of the Commissioner,

(a) to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody;

(b) to execute all warrants, and perform all duties and services in relation thereto, that may, under this Act or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers;

(c) to perform all duties that may be lawfully performed by peace officers in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums or other places; and

(d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner.

48 Further, section 37 of the RCMP Act states:

It is the responsibility of every member

(a) to respect the rights of all persons;

(b) to maintain the integrity of the law, law enforcement and the administration of justice;

(c) to perform the member's duties promptly, impartially and diligently, in accordance with the law and without abusing the member's authority;

(d) to avoid any actual, apparent or potential conflict of interests;

(e) to ensure that any improper or unlawful conduct of any member is not concealed or permitted to continue;

(f) to be incorruptible, never accepting or seeking special privilege in the performance of the member's duties or otherwise placing the member under any obligation that may prejudice the proper performance of the member's duties;

(g) to act at all times in a courteous, respectful and honourable manner; and

(h) to maintain the honour of the Force and its principles and purposes.

The RCMP Code of Conduct

49 The *Royal Canadian Mounted Police Regulations*, 2014 (SOR/2014-281) (hereinafter “*Code of Conduct*”) codifies the required conduct of RCMP members.

50 Section 2.1 of the *Code of Conduct* requires that “Members treat every person with respect and courtesy and do not engage in discrimination or harassment.”

51 Section 3.2 of the *Code of Conduct* requires that “Members act with integrity, fairness and impartiality, and do not compromise or abuse their authority, power or position.”

52 Section 4.2 of the *Code of Conduct* demands that “Members are diligent in the performance of their duties and the carrying out of their responsibilities...”

Liability of the Defendants

Violations of the Canadian Charter of Rights and Freedoms

53 Section 8 the *Constitution Act, 1982, being Schedule “B” to the Canada Act, 1982 (U.K.)*, c. 11 (the “Charter of Rights and Freedoms”) states:

Everyone has the right to be secure against unreasonable search or seizure.

54 Section 15(1) of the Charter of Rights and Freedoms states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

55 Section 24(1) of the Charter of Rights and Freedoms states:

Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed

or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

56 Without attempting to obtain the consent of Debbie, Jace or Boyblue, the Search Officers conducted a planned, deliberate and warrantless search of the Home.

57 The Search Officers' warrantless search of the Home was unreasonable and violated the Plaintiffs' constitutionally enshrined right to be secure against unreasonable search under s. 8 of the Charter of Rights and Freedoms.

58 Further, the Search Officers' warrantless search of the Home – and the Search Officers' mistreatment of the Plaintiffs – violated the rights guaranteed to the Plaintiffs in s. 15 of the Charter of Rights and Freedoms. The Search Officers' conduct discriminated against the Plaintiffs on the basis of their race. Had the Plaintiffs not been members of the Red Pheasant First Nation, the Search Officers would not have conducted the warrantless search of the Home, and the Search Officers would not have treated the Plaintiffs in the manner described above in paragraphs 23-45.

Misfeasance of Public Office

59 As sworn peace officers and members of the RCMP, the individual Defendants were in the exercise of their public functions when dealing with Debbie, Jace and Boyblue on August 9, 2016.

60 While exercising his public function, Sgt. Olberg – or another RCMP member whose identity is to be determined – ordered RCMP members under his direct command to conduct a warrantless search of the Home. Because exigent circumstances did not exist, the order to conduct the warrantless search violated ss. 8 and 15(1) of the Charter of Rights and Freedoms. Further, at all times, Sgt. Olberg was aware that the unlawful search of the Home was likely to injure Debbie, Jace and Boyblue.

61 The Search Officers deliberately engaged in unlawful conduct, including, *inter alia*:

- a. Unlawfully searching the Home and its perimeter, contrary to s. 8 of the Charter of Rights and Freedoms;

- b. Failing to maintain the integrity of the law, law enforcement and the administration of justice;
- c. Failing to perform the RCMP members' duties promptly, impartially and diligently, in accordance with the law and without abusing the members' authority;
- d. Failing to act at all times in a courteous, respectful and honourable manner;
- e. Failing to maintain the honour of the RCMP and its principles and purposes; and
- f. Failing to treat every person with respect and courtesy and do not engage in discrimination or harassment, contrary to s. 15 of the Charter of Rights of Freedoms and s. 2.1 of the Code of Conduct.

62 The members of the RCMP who attended the Home on August 9, 2016 were required to act in a courteous, respectful, and honourable manner and tell Debbie that her youngest son had passed away, and to tell Jace and Boyblue that they had lost their little brother.

63 Instead, the Search Officers who attended the Home deliberately engaged in discrimination by subjecting three proud members of the Red Pheasant First Nation to ridicule, unlawful searches, and humiliating breath tests.

64 The Search Officers were aware that rummaging through the Home, checking the microwave for Colten's dinner, and treating Debbie, Jace and Boyblue with disdain was likely to cause psychological injuries to the Plaintiffs.

65 Indeed, the Defendants' tortious conduct is the legal cause of the Plaintiffs' injuries. While the loss of Colten has devastated the Plaintiffs, it has been the unending memory of the Defendants' highhanded and egregious conduct that has caused the Plaintiffs' injuries.

Damages

66 As a result of the Defendants' conduct, the Plaintiffs have suffered the following injuries:

a. Debbie:

- i. Depression;
- ii. Physical, psychological and emotional hard and/or distress;
- iii. Anxiety;
- iv. Post-traumatic stress disorder;
- v. Nervous shock;
- vi. Mental anguish;
- vii. Interference with normal sleeping patterns;
- viii. Loss of enjoyment of life;
- ix. Loss of income; and
- x. Suicidal ideation.

b. Jace:

- i. Depression;
- ii. Physical, psychological and emotional hard and/or distress;
- iii. Anxiety;
- iv. Post-traumatic stress disorder;
- v. Nervous shock;
- vi. Mental anguish;
- vii. Interference with normal sleeping patterns;
- viii. Loss of enjoyment of life;

ix. Loss of income; and

x. Suicidal ideation.

c. Boyblue:

i. Depression;

ii. Physical, psychological and emotional hard and/or distress;

iii. Anxiety;

iv. Post-traumatic stress disorder;

v. Nervous shock;

vi. Mental anguish;

vii. Interference with normal sleeping patterns;

viii. Loss of enjoyment of life;

ix. Loss of income; and

x. Suicidal ideation.

67 Further, as a result of the injuries suffered by the Plaintiffs, the Plaintiffs have sustained certain special damages and losses and expenses for medical treatment.

68 Further, as the Defendants violated the rights afforded the Plaintiffs under ss. 8 and 15 of the Charter of Rights and Freedoms, a just and appropriate remedy should have regard to vindication of the right and deterrence of future breaches.

69 The function of vindication recognizes that the rights protected under the Charter of Rights and Freedoms cannot be allowed to be whittled away by attrition.

70 The function of deterrence recognizes that damages may serve to deter future breaches by state actors.

71 Debbie, Jace and Boyblue should have their rights vindicated, and the Defendants should be deterred from committing future constitutional violations upon members of the Red Pheasant First Nation.

Claim

72 The Plaintiff Debbie Baptiste claims:

- a. General damages in the amount of \$200,000;
- b. Damages in the amount of \$100,000 for pecuniary and other losses;
- c. Special damages in the amount of \$50,000;
- d. Interest pursuant to the *Pre-Judgment Interest Act*;
- e. The costs and disbursements of this proceeding, plus all applicable taxes;
- f. Punitive damages in the amount of \$200,000; and
- g. Such further and other relief as this Honourable Court may deem just.

73 The Plaintiff Jace Boushie claims:

- a. General damages in the amount of \$100,000;
- b. Damages in the amount of \$100,000 for pecuniary and other losses;
- c. Special damages in the amount of \$50,000;
- d. Interest pursuant to the *Pre-Judgment Interest Act*;
- e. The costs and disbursements of this proceeding, plus all applicable taxes;
- f. Punitive damages in the amount of \$200,000; and
- g. Such further and other relief as this Honourable Court may deem just.

74 The Plaintiff Boyblue Boushie claims:

- a. General damages in the amount of \$100,000;
- b. Damages in the amount of \$100,000 for pecuniary and other losses;
- c. Special damages in the amount of \$50,000;
- d. Interest pursuant to the *Pre-Judgment Interest Act*;
- e. The costs and disbursements of this proceeding, plus all applicable taxes;
- f. Punitive damages in the amount of \$200,000; and
- g. Such further and other relief as this Honourable Court may deem just.

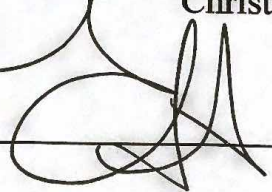
DATED at Saskatoon, Saskatchewan, this 8th day of August 2017.



Per:


Christopher Robin Murphy
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Per:


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