

ONTARIO
Superior Court of Justice
Cour supérieure de justice

Plaintiff's Claim
Demande du demandeur

Form / Formule 7A Ont. Reg. No. / Règl. de l'Ont. : 258/98



Toronto
 Small Claims Court / Cour des petites créances de

SC-11-115292-00
 Claim No. / N° de la demande

47 Sheppard Ave East

Address / Adresse

416-326-3554

Phone number / Numéro de téléphone

Plaintiff No. 1 / Demandeur n° 1

Additional plaintiff(s) listed on attached Form 1A.
 Le ou les demandeurs additionnels sont mentionnés
 sur la formule 1A ci-jointe.

Under 18 years of age.
 Moins de 18 ans.

Last name, or name of company / Nom de famille ou nom de la compagnie Stewart		
First name / Premier prénom Luke	Second name / Deuxième prénom	Also known as / Également connu(e) sous le nom de
Address (street number, apt., unit) / Adresse (numéro et rue, app., unité)		
City/Town / Cité/ville	Province	Phone no. / N° de téléphone
Postal code / Code postal		Fax no. / N° de télécopieur
Representative / Représentant(e) Davin Charney		LSUC # / N° du BHC 55780s
Address (street number, apt., unit) / Adresse (numéro et rue, app., unité) 295A Queen Street East		
City/Town / Cité/ville Toronto	Province ON	Phone no. / N° de téléphone 647-342-7334
Postal code / Code postal M5A 1S7		Fax no. / N° de télécopieur 647-343-3311

Defendant No. 1 / Défendeur n° 1

Additional defendant(s) listed on attached Form 1A.
 Le ou les défendeurs additionnels sont mentionnés
 sur la formule 1A ci-jointe.

Under 18 years of age.
 Moins de 18 ans.

Last name, or name of company / Nom de famille ou nom de la compagnie Toronto Police Services Board		
First name / Premier prénom	Second name / Deuxième prénom	Also known as / Également connu(e) sous le nom de
Address (street number, apt., unit) / Adresse (numéro et rue, app., unité) 40 College Street		
City/Town / Cité/ville Toronto	Province ON	Phone no. / N° de téléphone 416-808-8080
Postal code / Code postal M5G 2J3		Fax no. / N° de télécopieur 416-808-8082
Representative / Représentant(e)		LSUC # / N° du BHC
Address (street number, apt., unit) / Adresse (numéro et rue, app., unité)		
City/Town / Cité/ville	Province	Phone no. / N° de téléphone
Postal code / Code postal		Fax no. / N° de télécopieur

REASONS FOR CLAIM AND DETAILS / MOTIFS DE LA DEMANDE ET PRÉCISIONS

Explain what happened, including where and when. Then explain how much money you are claiming or what goods you want returned.

Expliquez ce qui s'est passé, en précisant où et quand. Ensuite indiquez la somme d'argent que vous demandez ou les biens dont vous demandez la restitution, explication à l'appui.

If you are relying on any documents, you **MUST** attach copies to the claim. If evidence is lost or unavailable, you **MUST** explain why it is not attached.

*Si vous vous appuyez sur des documents, vous **DEVEZ** en annexer des copies à la demande. Si une preuve est perdue ou n'est pas disponible, vous **DEVEZ** expliquer pourquoi elle n'est pas annexée.*

What happened? See attached Schedule "A"

Where?

When?

Que s'est-il

passé?

Où?

Quand?

How much? \$ 10,000
Combien? (Principal amount claimed / Somme demandée) \$

ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM WAS NEEDED.
DES FEUILLES SUPPLÉMENTAIRES SONT ANNEXÉES EN RAISON DU MANQUE D'ESPACE.

The plaintiff also claims pre-judgment interest from June 25, 2010 under:
Le demandeur demande aussi des intérêts (Date) conformément à :
antérieurs au jugement de

(Check only one box / Cochez une seule case) the Courts of Justice Act / la Loi sur les tribunaux judiciaires
 an agreement at the rate of _____ % per year / un accord au taux de _____ % par an

and post-judgment interest, and court costs.
et des intérêts postérieurs au jugement, ainsi que les dépens.

Prepared on: March 15, 2011 _____
Fait le : (Signature of plaintiff or representative / Signature du demandeur/de la demanderesse ou du/de la représentant(e))

Issued on: MAR 15 2011, 20t _____
Délivré le : (Signature of clerk / Signature du greffier)

CAUTION TO DEFENDANT: IF YOU DO NOT FILE A DEFENCE (Form 9A) with the court within twenty (20) calendar days after you have been served with this Plaintiff's Claim, judgment may be obtained without notice and enforced against you. Forms and self-help materials are available at the Small Claims Court and on the following website: www.ontariocourtforms.on.ca.
AVERTISSEMENT AU DÉFENDEUR: SI VOUS NE DÉPOSEZ PAS DE DÉFENSE (formule 9A) auprès du tribunal au plus tard vingt (20) jours civils après avoir reçu signification de la présente demande du demandeur, un jugement peut être obtenu sans préavis et être exécuté contre vous. Vous pouvez obtenir les formules et la documentation à l'usage du client à la Cour des petites créances et sur le site Web suivant : www.ontariocourtforms.on.ca.

Schedule "A"

Statement of Claim

The Plaintiff claims:

- a) general damages in the amount of TEN THOUSAND DOLLARS (\$10,000) for assault and battery of the Plaintiff and trespass against the Plaintiffs property;
- b) in addition, and/or in the alternative, general damages in the amount of TEN THOUSAND DOLLARS (\$10,000) for breach of the Plaintiff's rights under sections 2, 7, 8, and 9 of the Charter of Rights and Freedoms (the "Charter") flowing from the assault and battery of the Plaintiff ;
- c) in addition, and /or in the alternative, aggravated and punitive damages in the amount of TEN THOUSAND DOLLARS (\$10,000);
- d) special damages for the Plaintiff's loss of time, and interruption in business and routine of life;
- e) out-of-pocket expenses incurred, details of which will be provided at trial;
- f) costs on a solicitor and client basis, including or in addition to costs for disbursements, counsel fee, inconvenience and expense, and any other costs pursuant to the provisions of the Courts of Justice Act, R.S.O. 1990, c.43, and Rule 19 of the Rules of the Small Claims Court;
- g) pre-judgement interest pursuant to the provision of the Courts of Justice Act, R.S.O. 1990, c.43, section 128;
- h) post-judgement interest pursuant to the provisions of the Courts of Justice Act, R.S.O. 1990, c.43, section 129; and
- i) such further and other relief as may be claimed or awarded.

The Parties

- 2. The Plaintiff Luke Stewart is a 25 year old man who lives in the City of Kitchener.
- 3. The Defendant Toronto Police Services Board was at all material times the employer of all police officers in the Toronto Police Service and, as such, is vicariously liable for the claims of the Plaintiff pursuant to s. 50(1) of the Police Services Act, RSP 1990, C. p. 15.

Cause of Action

4. At approximately 2:30 p.m., on June 25, 2010, the Plaintiff is en route to a protest that was scheduled to begin in Allan Gardens in the City of Toronto.
5. The protest was one of many events related to the G20 meetings taking place in downtown Toronto.
6. As the Plaintiff approached the protest in Allan Gardens he observed that police had surrounded the park. He further observed that police were searching many people who were trying to enter the park.
7. The Plaintiff was stopped by Constables John A. Doe, John B. Doe, John C. Doe and Sargeant Jane Doe ("the officers"), who demanded to search his bag.
8. The officers insisted that the Plaintiff could not attend the protest unless he allowed the police to search his bag. The Plaintiff did not consent to the search.
9. The Plaintiff attempted to leave the area and attend the protest as planned.
10. The officers assaulted and battered the plaintiff and prevented him from attending the protest. The officers interfered with the plaintiff's right to freedom of expression, contrary to s. 2 of the Charter.
11. The officers arbitrarily detained the plaintiff and interfered with his right to liberty, contrary to s. 7 and 9 of the Charter.
12. The officers searched the Plaintiff's bag. The officers did not have lawful authority to search the bag and infringed on the Plaintiff's right to be free from unreasonable search and seizure, contrary to s. 8 of the Charter.
13. The officer unlawfully seized a pair of swimming goggles from within the Plaintiff's bag and did not return them to the Plaintiff. The officers seized the Plaintiff's property and thereby trespassed against the Plaintiff. The officers seized the Plaintiff's property, contrary to s. 8 of the Charter.
14. The unlawful detention and illegal search and seizure was captured on video and posted on youtube.com at http://www.youtube.com/watch?v=HZgjX5vHt2o&feature=player_embedded. The video was posted on youtube.com without the consent of the Plaintiff.
15. As of March 14, 2011 the youtube.com video had 39,310 hits.
16. Many comments have been posted to the youtube.com web site attached to the video, some of which are abusive and threatening. One post identified the Plaintiff, "[H]is name is Luke Stewart a PHD student from Waterloo."
17. The Plaintiff was unlawfully detained by the officers for approximately 12 minutes.

Damages

18. The Plaintiff has suffered damages, including:

- a) damages for loss of liberty, physical, emotional, and mental distress, and indignity;
- b) damages for loss of reputation;
- c) damages for the Plaintiff's loss of time and routine of life;
- d) aggravated damages for the insulting, high handed, malicious and oppressive conduct; and
- e) punitive damages for the Defendants' abuse of authority for a malicious purpose with wilful and/or grossly negligent disregard of the Plaintiff's rights.

Remedy Sought

- 19. Plaintiff claims damages in respect of the unlawful conduct of John A. Doe, John B. Doe, John C. Doe and Sargeant Jane Doe.
- 20. The Plaintiff further claims damages pursuant to s. 24(1) of the Charter of Rights and Freedoms for the breach of their rights under sections 2, 7, 8, and 9 of the Charter.
- 21. The Plaintiff proposes that this action be tried at Toronto.

Date of Issue:

March 15, 2011

Davin Charney
Barrister and Solicitor
295A Queen Street East
Toronto ON M5A 1S7