



Court File No. **VLC-S-S-1611344**
No.
Vancouver Registry

In the Supreme Court of British Columbia

Between

MICHAEL WARDROPE

Plaintiff

and

**THE MINISTER OF JUSTICE FOR THE PROVINCE OF BRITISH COLUMBIA
AND ATTORNEY GENERAL OF CANADA**

Defendant

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

1. The plaintiff, Michael Wardrope is a member of the RCMP, residing in Maple Ridge, British Columbia and has an address for delivery at 700 - 275 Lansdowne Street, Kamloops, British Columbia.
2. The defendant, The Attorney General of Canada (The "Federal Crown") is the defendant as result of acts and omissions by or on behalf of the RCMP, the police force, pursuant to the provisions of the *Royal Canadian Mounted Police Act* R.S.C. 1985, c. R-10 and amendments thereto and the *Crown Liability and Proceedings Act* R.S.C. 1985, c. C-50.
3. The defendant, The Minister of Justice for the Province of British Columbia (The "Provincial Crown") is the defendant as a result of the acts and omissions by or on behalf of the RCMP, the police force, pursuant to the provisions of the *Royal Canadian Mounted Police Act* R.S.C. 1985, c. R-10 and amendments thereto or in the alternative as a result of the acts and omissions on behalf of those members involved all of whom are deemed to be provincial constables pursuant to the provisions of the *Police Act* R.S.B.C 1996, Chapter 367 and amendments thereto and the *Crown Proceedings Act* R.S.B.C. 1996, Chapter 89 and amendments thereto.
4. The plaintiff entered into the RCMP graduating from Depot on or about the month of January, 2007.
5. Upon entry into the RCMP, members are required to swear an Oath of Office as follows:

"I solemnly swear that I will faithfully, diligently and impartially execute and perform the duties required of me as a member of the Royal Canadian Mounted Police, and will well and truly obey and perform all lawful orders and instructions that I receive, without fear, fear or affection of or toward any person so help me God."
6. The core values of the RCMP are engrained in every member and are; "honesty, integrity, professionalism, compassion, accountability and respect" (also known as HIPCAR).
7. These core values express duties owed by the RCMP and its members to the public and to one another as employees of the RCMP.
8. The RCMP and each of its members have a duty to provide a safe and suitable work environment for its members, free from harassment and other improper allegations.
9. The Administration Manual defines harassment to include:

"Abuse of authority which is the improper use of power and authority to endanger, undermine, threaten, interfere with, or influence an employee's job, the performance of that job, the economic livelihood of that employee, or the employee's career. It can include intimidation, threats, blackmail, or coercion."

10. The Plaintiff has throughout his career held the rank of constable.
11. From January of 2007 until March of 2009 the Plaintiff worked as a general duty constable.
12. On or about March, 2009, the Plaintiff was recruited to transfer to the "Child Abuse and Sexual Offence" unit ("CASO").
13. The Plaintiff was married and had a family with three young children at that time. The family lived in Maple Ridge and the CASO unit was in Surrey. The situation at that time required up to 3 hours in travel per day to commute to and from work.
14. The Plaintiff was very flattered that he was being recruited for a position in Major Crimes as a relatively new member. However, the Plaintiff had concerns and sought certain assurances before he accepted the position. He explained that he had three young children and had to commute hours per day and didn't think that viewing a lot of child pornography would be healthy for him. He expressed his concerns as:
 - a) the amount of overtime required in the position; and
 - b) the extent of exposure to child pornography.
15. Cpl. M., a supervisor in CASO, specifically assured the Plaintiff as follows:
 - a) That overtime was not common unless a big file came in, perhaps a couple of times a year and that almost every day members in the Unit left at the end of their 8 hour shift, and
 - b) That the amount of child pornography that needed to be viewed was very minimal and almost non-existent as the work was, for the most part, interviewing children.
16. Based on these assurances, the Plaintiff accepted the transfer and commenced his duties in CASO on March 23, 2009. At that time he was told that he was committed to as much as two and half years in CASO.
17. Since his ultimate transfer from CASO, the Plaintiff has learned that he would not have been committed to any specific length of time in the Unit, particularly in circumstances of mental health issues arising from his service.

18. After three and a half months at CASO the Plaintiff went on Parental Leave for nine months. By the time he went on leave, the Plaintiff had been required to work overtime and had been already been exposed to child pornography, both of which were starting to take a toll on his mental health.
19. The Plaintiff returned and subsequently was immediately exposed to a constant significant volume of child pornography in the form of disturbing videos, photographs, interviews, and interrogations.
20. The Unit was significantly understaffed and all attempts to achieve appropriate staffing levels by various NCO's in charge were rejected. As a result the work load demands on the Plaintiff increased substantially requiring increased overtime.
21. The Plaintiff's health was deteriorating. His mental health was impacted by unescapable images and memories from the files he had worked on.
22. The Plaintiff was never offered a debriefing for the entire period he was in CASO.
23. The Plaintiff's supervisors were aware of his struggles with his health and the work load.
24. The Plaintiff was aware of, or had witnessed personally on a number of occasions members in the Unit breaking down and crying while working on files.
25. The Plaintiff was committed to completing, what he understood to be, his two and half years at CASO.
26. On or about the autumn months of 2010, the Plaintiff was showing symptoms of having a nervous breakdown. He approached his supervisor, Sgt. S. and broke down, crying and telling him that he was falling apart and was on the verge of a nervous breakdown.
27. Sgt. S. advised the Plaintiff that he would get him transferred out of the Unit.
28. The Plaintiff's health further deteriorated, with the ongoing stress of the nature and volume of the work while awaiting a transfer.
29. The transfer arrived some ten months later, however, by this time the Plaintiff's physical and mental health were irreparably damaged.
30. The Plaintiff was diagnosed with PTSD in 2012 and since that time has been on sick leave (ODS) for extensive periods, interspersed with unsuccessful attempts to return to regular duties.
31. The Administrative Manuals of the RCMP, at all material times, included the following provisions in the Chapter entitled Occupational Health Services:

F. 3. Special Medical Evaluation

F. 3. a. General

1. A member may suffer from a serious medical problem that is not readily recognizable in a regular medical assessment, but can be noticed over time by coworkers or a supervisor.
2. Evidence of a serious problem might be:
 1. inconsistent behavior with loss of contact with reality;
 2. recurrent use of excessive force or other forms of misconduct;
 3. vehicle accidents with no apparent cause;
 4. behavior that poses a risk to the safety of the member, coworker or the public;or
 5. posttraumatic stress reaction.
3. Early medical intervention in such situations could prevent injuries, death, disciplinary problems, or the member's discharge.

F. 3. b. Member

1. It is your responsibility to inform your supervisor when you suspect a condition exists as outlined in F.3.a.2.

F. 3. c. Commander

1. Discuss with the member the matter that you have become aware of or have been told about and assess whether there may be a problem.
2. If you believe that the member has a health problem, inform the member that you intend to refer him/her for a health assessment.
3. Report the matter, through confidential channels, to the A&PO.
4. If you believe that the member has acute mental problems:
 1. Arrange for immediate medical assistance by the HSO or another physician.
 2. Take possession of the member's service revolver, other firearms or weapons that the member might use to injure himself/herself or others.
5. Inform your A&PO of the action taken.

EMOTIONAL HEALTH SERVICES

G. 1. Psychologically Traumatic Incidents

G. 1. a. General

1. The intent of such services is to identify the situations for which it is mandatory to contact Health Services, and those situations where it is highly recommended that Health Services be provided. See App. II-19-5.
2. A member involved in a psychologically traumatic incident will have prompt access to psychological support services, either individually or in a group.

G. 1. b. Commander

1. When a member is involved in a psychologically traumatic incident, promptly notify the HSO.
2. Inform the member of the medical arrangements being made on his/her behalf.
3. If necessary, approve sick leave. See II.5.G.

32. In accordance to the provisions of the Manuals the Plaintiff had reported to his supervisors the serious concerns that he had regarding his mental health and the risk that it posed to his safety.

33. The supervisors and those in charge failed or neglected to follow the provisions of the Administrative Manuals.

34. In addition the conduct of members of the RCMP in authority over him at CASO was harassing, intimidating and/or an abuse of authority and as such was harassment within the description provided in the Administration Manual.

35. In addition Cpl. M. knew or ought to have known that her assurances to the Plaintiff were an enticement for him to accept a position that they were having difficulty staffing, and that the assurances she provided to his concerns were complete misrepresentations as to the workload, the required overtime and the exposure to child pornography.

36. It was a direct and foreseeable consequence of the negligent conduct of members of the RCMP in authority over him in CASO that the plaintiff's career with the RCMP would be compromised as his mental and physical health would deteriorate.

37. As a result of the negligence the Plaintiff has suffered extreme mental and physical ailments and disabilities will continue so to suffer, some particulars of which are as follows:

- a) Post-Traumatic Stress Disorder;
- b) Suicidal thoughts;
- c) Serious depression;
- d) Severe anxiety disorder;
- e) Chronic pain with severe cramping and spasms to the back, arms, legs, esophagus, jaw, hands, feet, bladder and bowels;
- f) Non-infectious epididymitis;
- g) Somatic Symptom Disorder;
- h) Avoidance;
- i) Social withdrawal;
- j) Emotional dysregulation;
- k) Re-experiencing difficulties;
- l) Concentration difficulties;

- m) Fatigue;
- n) Sleep disturbance;
- o) Weight gain;
- p) Irritable bowel syndrome; and
- q) Bruxism.

38. As a result of the negligence of the defendants and its members the plaintiff has occasioned expense and has suffered financial loss and damage and will continue so to suffer.

Part 2: RELIEF SOUGHT

1. General damages;
2. Special damages;
3. Past loss of income;
4. Future loss of income;
5. Diminished loss of earning capacity;
6. Loss of benefits as a member of the RCMP;
7. Loss of future pension benefits;
8. Interest pursuant to the Court Order Interest Act, R.S.B.C. 1996, c. 79 to the date of Judgment or date of payment, whichever is the sooner;
9. Costs; and
10. Such further and other relief as this Honourable Court may deem meet and just.

PART 3: LEGAL BASIS

1. By virtue of the provisions of the Police Act and an agreement between the Federal and Provincial Crowns, the Provincial Crown is vicariously and/or statutorily liable for the negligence of any and all members of the RCMP within British Columbia.
2. The Provincial Crown is otherwise vicariously liable for the negligence of the RCMP, its employees, and/or agents in British Columbia involved in matters described herein.
3. The Plaintiff further claims that the Federal Crown and the Provincial Crown, on behalf of the RCMP, and each of them, or one or the other, or any combination thereof are

vicariously liable for the actions of any members of the RCMP involved in matters described herein.

4. The Defendants are under a duty to comply with the terms of the RCMP Act and regulations as well as the stated policies of the RCMP expressed in the Administration Manuals or otherwise.

5. It is a term of the Administration Manual of the RCMP that each member has the right to pursue their career in the RCMP free of harassment and with the protection of his health as provide for in the Manual.

6. It is a term of the Administration Manual that Commanders/Supervisors are responsible for the prevention of harassment and are to act promptly to protect all.

7. It is a further term of the Administrative Manual the Commanders/Supervisors have duties to the members with respect to reporting mental health issues and approving sick leave.

8. The conduct of the RCMP and members of the RCMP as set out herein, constitutes harassment contrary to the Administration Manual of the RCMP including abuse of authority, and/or a breach and/or violation of the core values of the RCMP and/or negligent and/or intentional infliction of mental suffering

9. It was a direct and foreseeable consequence of the negligent conduct of the RCMP and members of the RCMP, either individually, or in combination, that the plaintiff would sustain severe psychological and physical damage, and resultant loss and damage.

Plaintiff's address for service:

Mair Jensen Blair LLP
Barristers & Solicitors
700 - 275 Lansdowne Street
Kamloops, BC V2C 6H6
Fax number address for service (if any): N/A
E-mail address for service (if any): N/A

Place of trial: Vancouver, B.C.

The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

Dated: Dec 7/16


J. Barry Carter

Signature of ~~FOR~~

☐ Plaintiff ☒ lawyer for plaintiff