

Court File No. CV-19-00000446-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN

MARIO BAPTISTE JUNIOR

Plaintiff

-and-

**BELLEVILLE POLICE SERVICES BOARD, CHIEF OF
POLICE RON GIGNAC, & JOHNS DOE, CONSTABLE
PAUL FYKE, CONSTABLE JEFF SMITH, CONSTABLE
KELLY DODDS, & CONSTABLE JILL MCAULEY**

Defendants

**FRESH AS AMENDED STATEMENT OF CLAIM
(amended May 13, 2022)**

ELECTRONICALLY AMENDED on this 6th day of July 2022
pursuant to Rule 26.02(a).
Name of Court Registrar _____
Signature _____

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
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, 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 or 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 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.

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.

IF YOU PAY THE PLAINTIFFS' CLAIM AND \$2,000.00 for costs, within the time for service and filing your Statement of Defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiffs' claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: May 13, 2022

Issued by

Local Registrar

Address of
Court Office:

15 Bridge Street West
Belleville, Ontario, K8P 0C7

**TO: SUZANNE E. HUNT (LSO 57877L)
COUNSEL FOR THE DEFENDANTS**

**TEMPLEMAN LLP
200-205 DUNDAS STREET EAST
BOX 234 BELLEVILLE, ONTARIO
K8N 5A2**

TEL: 613-966-2620

FAX: 613-966-2866

AND TO: THIS HONOURABLE COURT

CLAIM

OVERVIEW

1. This action was initiated by a Statement of Claim filed December 4, 2019 and this is the second amendment. The first amendment occurred on July 29, 2020.
2. Mario Baptiste's claim is against the defendants for:
 - a. General damages in the amount of \$250,000.00;
 - b. Special damages in the amount of \$250,000.00;
 - c. Aggravated, punitive, and/or exemplary damages in the amount of \$50,000.00;
 - d. A declaration pursuant to section 52 of the *Constitution Act*, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982 c 11, that his constitutional rights as afforded pursuant to sections 7, 9, 12, and 15 (1) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*") have been violated;
 - e. Damages in the sum of \$550,000.00 pursuant to section 24 (1) of the *Charter* for breach of his Charter rights as above;
 - f. Pre-judgment and post-judgment interest on any and all monies found due and owing in accordance with the *Courts of Justice Act*, R.S.O. 1990, chap. C. 43, as amended;
 - g. Costs of this action plus HST on a full indemnity basis or, in the alternative, such further and other bases as to this Honourable Court may deem just; and
 - h. Such further and other relief as this Honourable Court deems just and reasonable.

PARTIES

3. The Plaintiff, Mario Baptiste Junior, was at all material times a 34-year-old Mohawk Indian residing at the Tyendinaga community ("Mario" or "the Plaintiff"). Mario has a hearing impairment and relies upon hearing aids in both ears.
4. The defendant, the Belleville Police Services Board (the "Defendant Board"), is constituted pursuant to the *Comprehensive Ontario Police Services Act, 2019 S.O. 2019, c. 1 Police Services Act, R S O. 1990, c P 15* (the "PSA") and was at all material times responsible for the provision of police services, law enforcement, and crime prevention in Belleville, Ontario.
5. The Defendant Board is a statutory body which, by virtue of section 50 (1) of the PSA, is liable for the torts committed by the members of the Belleville Police Service ("BPS") in the course of their employment or in the purported course of their employment.
6. The defendant, Ron Gignac, Chief of Police, is, pursuant to Part VI section 41 of the ~~Act~~ PSA, statutorily charged with and responsible in law for, *inter alia*, administering the police force and overseeing its operation, ensuring that officers carry out their duties in compliance with the law and in a manner that reflects the needs of the community, and maintaining discipline among officers (the "Defendant Gignac").
7. Three of the 4 Defendant Officers, herein named in this fresh as amended statement of claim, have been named in an investigation currently commenced by the Special Investigations Unit ("SIU") which is currently before the courts. The only officer not named in the SIU investigation is Constable Jill McAuley.
8. The defendant, Paul Fyke, was at all material times a constable employed or otherwise engaged by the Defendant Board (the "Defendant Fyke").

9. The defendant, Jeff Smith, was at all material times a constable employed or otherwise engaged by the Defendant Board (the "Defendant Smith").
10. The defendant, Kyle Dodds, was at all material times a constable employed or otherwise engaged by the Defendant Board (the "Defendant Dodds").
11. The defendant, Jill McAuley, was at all material times a constable employed or otherwise engaged by the Defendant Board (the "Defendant McAuley").
12. When used collectively, the Defendants Fyke, Smith, Dodds, and McAuley will be referred to as the "Defendant Officers".

FACTUAL BASIS OF ACTION

13. On Friday November 15, 2019, at approximately 8:48 PM, Mario attended the Lowes Home Improvement and Hardware Store at 219 Millennium Parkway, Belleville, Ontario ("Lowes") with Matthew Bolton and an anonymized minor (the "Party"). Mario purchased \$37.80 worth of goods and exited Lowes at or around 9:33 PM with the Party. The trio proceeded to the Taco Bell located at 336 North Front Street, Belleville, Ontario.
14. Shortly after sitting in the Taco Bell to eat their meals, one or all of the Defendant Officers attended at the Taco Bell and accused Mario and the Party of stealing a can of soda pop from the Lowes.
15. One or several of those Defendant Officers detained and handcuffed Matthew Bolton and the minor and placed them in separate police cruisers outside while Mario remained in the Taco Bell.
16. Mario presented his receipt as well as approximately \$500.00 cash to establish he and the Party had no motive to steal a can of soda pop when suddenly and without warning one of the Defendant Officers grabbed Mario, pulled him from the booth he was sitting in,

and wrestled him to the ground. Mario had food in his mouth, choked, and lost consciousness as well as vital signs (the "Attack").

17. Mario regained consciousness in an ambulance. One of the Defendant Officers, or another officer employed or otherwise engaged by the Defendant Board, was present. Although Mario had lost his hearing aids, he saw the Defendant Doe Officer tell paramedics that he had suffered a seizure. The other Defendant Officers told various medical staff he had a seizure upon arrival at Belleville General Hospital ("BGH").
18. Mario remained in hospital overnight and was diagnosed with a broken right pinky finger, left ring finger sprain, broken rib, and internal bleeding. He also suffered various cuts and bruises, particularly to the head.
19. Prior to discharge, Mario realized he had urinated on himself while unconscious.
20. At the time of filing, Mario is experiencing concussion-like symptoms, dizziness, throat pain, and increased tiredness. He is also experiencing anxiety and PTSD symptoms, particularly in public and in Belleville.
21. The Defendant Fyke attended at the Lowe's store in Belleville on the evening of November 15, 2019. Defendant Fyke was in the store at the same time as Mario. He did not appear to be in uniform.
22. During his time in the store, Mario had an interaction with Lowe's staff in the lumber department about a product that was unavailable. Following this interaction, Lowe's staff were discussing the interaction at the customer service counter. The Defendant, Fyke, was at the customer service counter at the Lowe's store and overheard this discussion.
23. Mario did not steal anything from the Lowe's store on the night of November 15, 2019. No Lowe's staff ever called the police on the night of November 15, 2019.

24. Defendant Fyke was in the Lowe's store at the same time as Mario and his Party, however, Defendant Fyke left the store prior to Mario and his Party leaving.
25. Mario is aware that he is known to law enforcement from past political activities concerning Mohawk land claims and believes the Attack was motivated by his race. The Attack has impaired Mario's dignity as a Mohawk man.
26. At no time was Mario arrested or charged.
27. On May 27, 2021, the SIU charged the following officers with the following charges, regarding the events that occurred on November 15, 2019:
- a. Constables Kyle Dodds, Paul Fyke, and Jeffrey Smith were each charged with one count of assault causing bodily harm, contrary to section 267(b) of the *Criminal Code of Canada*.

CAUSES OF ACTION

28. The Defendants are jointly, severally, and/or vicariously liable to Mario on the following bases.

Assault and Battery

29. The Defendant Officers intentionally applied force to Mario's person without his consent. The force used on Mario was not justified at law. The assault and battery were intentional, and the force applied in the circumstances which the Defendants Officers knew or ought to have known would be excessive and would and/or could cause serious injury. It is further alleged that the assault and battery was entirely unprovoked and without just cause or any cause whatsoever. As a result of the assault and battery, Mario has suffered various personal injuries as outlined below.

30. The Defendant Board is liable for the Assault and Battery because those torts occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

Intentional Infliction of Mental Suffering

31. The Defendant Officers engaged in flagrant and outrageous conduct that was calculated to produce harm to Mario and has resulted in a visible and provable illness to him. Those Defendants are liable to Mario for damages as a result, and the damages suffered by him are a reasonably foreseeable consequence of the Defendants' actions.

32. The Defendant Board is liable for the Intentional Infliction of Mental Suffering because the Attack occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

33. Mario still suffers from injuries sustained during the attack, as well as the emotional and mental trauma that resulted from the Attack on a daily basis. Mario does not feel comfortable out in public in his community, nor out in public in the town of Belleville where the Attack took place.

Negligence

34. The Defendant Officers owe a duty of care to members of the public they encounter in the course of their employment, including Mario.

35. The actions of the Defendant Officers in perpetrating the Attack were wanton acts of willful cruelty, gratuitous violence, and deliberate humiliation towards Mario and none of the acts complained of herein fell within the scope of the statutory power imposed on

them. The Defendant Officers deliberately violated the law in perpetrating the Attack. In the alternative, the Defendant Officers were reckless and/or willfully blind to whether their actions violated the law.

36. The Defendant Officers acted with malice and/or for an improper purpose in that they knew that or were recklessly indifferent to whether their actions would cause injury to Mario.

37. The Defendant Officers breached the duty of care they owed to Mario as a member of the public, and accordingly are liable in negligence to him. Mario's injuries arose as a direct result of the actions of the Defendant Officers. The negligent actions and/or inactions of the Defendant Officers as plead herein each and/or collectively caused injury to Mario, a consequence those Defendants knew or ought to have known would occur as a result of their negligence. Without restricting the foregoing, the particulars of said negligence of the Defendant Officers are as follows:

- a. The Defendant Officers negligently and aggressively employed force in circumstances in which they knew or ought to have known that their actions would injure Mario;
- b. The Defendant Officers misled or failed to accurately portray to Mario's health care providers the nature and origin of his injuries;
- c. The Defendant Officers failed at all material times to exercise the standard of care required by their position as police officers with the Defendant Board;
- d. The Defendant Officers acted with reckless disregard for the life and safety of Mario;

- e. The Defendant Officers engaged with Mario when they knew or ought to have known that they were incapable of doing so in a reasonably safe manner due to racial prejudice towards him as a Mohawk;
 - f. The Defendant Officers purposely carried out the Attack with malice towards Mario as a Mohawk;
 - g. The Defendant Officers were incompetent to carry out the duties of police officers and lacked the reasonable care, skill, ability and training necessary to perform the duties of a police officer, and ought not to have been assuming the responsibilities and obligations of their positions.
38. At no time were there reasonable grounds which would lead any ordinary prudent and cautious person, placed in the same position of the Defendant Officers to the conclusion that Mario posed such a risk as to attract the level of force used. None of the Defendant Officers held an honest or reasonable belief that Mario posed any threat or risk.
39. No Lowe's employee ever contacted the police on the night of November 15, 2019.
40. Mario states that the Defendant Officers acted with an improper motive, out of a spirit of vengeance, spite, ill will, obstinacy, and anger, and not in furtherance of justice, since none of the Defendant Officers exercised any independent judgment to determine whether, in light of the particular circumstances, there was any chance that Mario posed any risk as to attract the level of force used.
41. At all material times, pursuant to subsections 37 and 38, as well as section 31 (1) of the *PSA*, the Defendant Board's duties included:
- a. The provision of adequate and effective police services in Belleville;
 - b. Appointment of members of the Service;

- c. General determination of objectives and priorities with respect to police services in Belleville;
 - d. Adoption of a diversity plan to ensure members of the police service reflect the diversity of the area for which the board has policing responsibility; and
 - e. Establishment of policies for the effective management of the Service.
42. At all material times, the Defendant Board owed Mario a duty to carry out its duties in a careful and effective manner and, in particular, in such a way that Mario should not have feared for his life and safety or been injured in the circumstances he found himself in on November 15, 2019. The Defendant Board failed in its duties to Mario because it, among other things:
- a. Failed to appoint qualified persons as police officers pursuant to subsection 33 43 (1) of the *PSA*;
 - b. Failed to put into place policies and procedures to ensure that the Defendant Officers were, and continued to be, adequately trained to perform their duties as police officers;
 - c. Failed to put into place policies and procedures to monitor, assess and ensure on a regular basis that the physical and mental abilities of the Defendant Officers would enable them to properly perform their duties as police officers;
 - d. Failed to effectively manage the Belleville Police Service to ensure the adequate provision of policing to the residents of Belleville;
 - e. Failed to put into place policies and procedures to ensure that the Defendant Officers were aware of the very limited circumstances in which it may be

appropriate to use force which they know or ought to know would inflict bodily harm;

- f. Failed to put into place policies and procedures to ensure that the Defendant Officers were aware that they must avoid the use of excessive force;
 - g. Failed to put into place policies and procedures to adequately supervise the Defendant Officers and to maintain appropriate standards of policing among them;
 - h. Failed to train the Defendant Officers in appropriate investigative techniques;
 - i. Failed to train the Defendant Officers how to appropriately respond to a call;
 - j. Failed to implement and enforce, as well as train the Defendant Officers on, appropriate policing standards and techniques in regard to Mohawk men; and
 - k. Failed to implement adequate training on the use of force and restraints.
43. At all material times, pursuant to section 41 (1) of the *PSA*, the Defendant Gignac's duties included:
- a. Administering the police force and overseeing its operation in accordance with the objectives, priorities and policies established by the Defendant Board under subsection 37 and 31(1);
 - b. Ensuring that members of the police force carry out their duties in accordance with the law and in a manner that reflects the needs of the community, and that discipline is maintained in the police force; and
 - c. Ensuring that the police force provides community-oriented police services including towards Mohawk men.

44. At all material times, the Defendant Gignac owed Mario a duty to carry out his duties in a careful and effective manner and, in particular in such a way that Mario should not have feared for his life and safety or been injured in the circumstances he found himself in on November 15, 2019. The Defendant Gignac also owed a duty of care to ensure that the Defendant Officers were properly trained for and supervised in respect of their duties as police officers. The negligent actions and/or inaction of the Defendant Gignac caused injuries to Mario, a consequence he knew or ought to have known would occur as a result of his negligence. The Defendant Gignac breached his duty to Mario because he, among other things:

- a. Knew or ought to have known that the Defendant Officers were insufficiently trained to be dealing with members of the public;
- b. Knew or ought to have known that the Defendant Officers were unfit to perform duties reasonably expected of police officers;
- c. Failed to oversee the police force's operation in accordance with the objectives, priorities and policies established by the Defendant Board, particularly in regard to Mohawk men, and in accordance with the applicable provisions of the *PSA*;
- d. Failed to ensure that the Defendant Officers carried out their duties in compliance with the law and in a manner that reflects the needs of the community, particularly in regard to Mohawk men;
- e. Failed to ensure that discipline is maintained in the police force, particularly with respect to racial prejudice towards Mohawk men;
- f. Failed to ensure that the police force provided community-oriented police services particularly towards Mohawk men, and

- g. Failed to carry out his duties under the *PSA* and O. Reg 267/10 to notify the SIU or instruct a delegate to notify the SIU of the serious injuries sustained by Mario.

Misfeasance in Public Office

45. The Defendant Officers are all holders of public office.
46. The Defendant Officers intentionally confined and assaulted Mario, knowing that they were acting unlawfully.
47. Following the interaction on November 15, 2019, the Defendant Officers failed to alert the Chief of Police of the altercation which resulted in serious injury, in an attempt to evade investigation by the SIU for their conduct.
48. The actions of the Defendant Officers went beyond failing to discharge the obligations of an office. The actions of the Defendant Officers, especially Defendant Fyke as set out above, were deliberate, unlawful, and undertaken in bad faith in the exercise of a public function. The Plaintiff states that the Defendant Officers were aware or reckless as to the fact that their conduct was unlawful and likely to injure Mario.
49. In addition, the Plaintiff states that the Defendant Officers failed to act in accordance with the duties outlined in section 42 of the *PSA*.
50. Further, the Plaintiff states that the Defendant Officers further failed to abide by the principles set out in the Code of Conduct, Schedule to O. Reg. 268/10. The Defendant Officers are therefore liable for misfeasance in public office.
51. The Defendant Officers specifically chose not to contact the SIU or take necessary steps for a Chief of Police or delegate to contact the SIU as required by O. Reg 267/10, despite the clear knowledge that Mario suffered serious bodily injuries, as was demonstrated by the need to call an ambulance and have him transported to the BGH.

Conspiracy

52. The Defendant Officers, acting individually and/or collectively, made statements to avoid accountability for their actions on the evening of November 15, 2019.
53. As an explanation for the injuries he sustained, the Defendant Officers reported to paramedics in the ambulance, and told medical staff at the BGH, that Mario had suffered a seizure.
54. The Defendant Officers deliberately chose not to contact the SIU or take necessary steps for a Chief of Police or delegate to contact the SIU as required by O. Reg. 267/, despite the knowledge that Mario suffered serious bodily injuries on November 15, 2019.
55. The Defendant Officers' actions were deliberate, unlawful, and undertaken in bad faith, and for the sole purpose of escaping criminal investigation by the SIU pursuant to the *PSA*, and the *Special Investigations Unit Act* (“*SIUA*”).

Vicarious Liability

56. The Plaintiff states that the BPS Board is responsible for the torts and *Charter* violations of the Defendant Officers, as plead herein, by virtue of section 50(1) of the *PSA*.

Section 7 of the Charter

57. Mario was at all material times an individual present within Canada when the Attack occurred.
58. Mario's right to liberty was violated by the Attack because the Defendant Officers, acting in the course of their employment, interfered with his physical integrity.
59. Mario's right to security of the person was also violated by the Attack because the Defendant Officers, acting in the course of their employment, imposed physical suffering upon him and deprived him of control over his bodily integrity.

60. The deprivations of Mario's rights to liberty and security of the person were not authorized by any principle of fundamental justice.

61. The Defendant Board is liable for the deprivation of Mario's right to liberty and security of the person because those deprivations occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

Section 9 of the Charter

62. Mario was at all material times an individual present within Canada when the Attack occurred.

63. Mario's right to freedom from arbitrary detention was violated by the Attack which constituted unlawful state conduct.

64. The Attack constituted a detention because it had the effect of imposing a physical and psychological restraint upon Mario's liberty.

65. The detention was arbitrary because it was unlawful and/or undertaken for improper motives including, but not limited to, Mario's status as a Mohawk. There were no reasonable grounds to detain Mario and the Attack was not in furtherance of any valid investigative purpose.

66. The Defendant Board is liable for the arbitrary detention because it occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

Section 12 of the Charter

67. Mario was at all material times an individual present within Canada when the Attack occurred.

68. The Attack constituted a treatment within the meaning of section 12 because the Defendant Officers, in conducting the Attack, exercised state control over Mario.

69. The conduct of the Defendant Officers in perpetrating the Attack was cruel and unusual as it was grossly disproportionate to the circumstances, so excessive to outrage standards of decency, and abhorrent and/or intolerable to Canadian society.

70. The Defendant Board is liable for the deprivation of Mario's right to be free from cruel and unusual treatment because the deprivation occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

Section 15(1) of the Charter

71. Mario was at all material times an individual present within Canada when the Attack occurred.

72. Mario was denied equality before and under the law, as well as equal protection and benefit and was discriminated against because of his race, national and ethnic origin, and colour as a Mohawk man by virtue of the Attack. In particular:

- a. The Attack resulted from a distinction based on Mario's status as a Mohawk, which constitutes a distinction based on his race, national and ethnic origin, and colour;
- b. The distinction and consequent Attack were both ~~was~~ discriminatory because:
 - i. It denied his essential human dignity.
 - ii. It has had a particularly severe impact upon him as a result of preexisting disadvantage, stereotyping, prejudice, and vulnerability as an Indian in Canada.

- iii. The Attack failed to take into account Mario's actual circumstances as the Defendant Officers disregarded his receipt and cash and instead concluded, based on historical stereotypes, that he had stolen the can of soda pop.
- iv. No employee of Lowe's Canada called the police following Mario's attendance at Lowe's on November 15, 2019.

73. The Defendant Board is liable for the deprivation of Mario's right to be free from cruel and unusual treatment because the deprivation occurred within the course of the employment of the Defendant Officers and the Defendant Board's enterprise and empowerment of those Defendants materially increased the risk of harm to Mario.

DAMAGES

74. As a result of the above-noted actions and omissions of the Defendant, Mario claims to have the following compensatory damages.

Non-pecuniary Damages

- a. Concussion and exacerbation of concussion symptoms;
- b. Headaches, head and eye pain;
- c. Cuts, scrapes, bruises, abrasions, and soft-tissue injuries to the head, face, and nose;
- d. A broken rib and associated torso pain and soft-tissue injuries;
- e. A broken pinky finger and associated pain and soft-tissue injuries;
- f. A sprained ring finger and associated pain and soft-tissue injuries;
- g. Minor internal bleeding;
- h. Lethargy;

- i. Depression, anxiety, and PTSD-symptoms;
- j. Fear of public authority;
- k. And such further and other injuries as may arise and be advised of at or prior to the trial of this matter.

Special Damages

- a. Mario has incurred, and will continue to incur, out of pocket expenses as a result of the wrongful actions described herein.
- b. Mario requires reimbursement for the health care expenses including any subrogated claim for funds paid by OHIP or Indian Affairs.
- c. Mario claims past and future wage loss as well as past and future care expenses.

Charter Damages

- a. If the Plaintiff succeeds in proving that one of the *Charter* rights as set out above has been breached, the Plaintiff seeks *Charter* damages.
- b. The Plaintiff pleads that they are entitled to a remedy that this Honorable Court considers appropriate and just in the circumstances.

75. The Defendants, in the circumstances described above, acted in bad faith and in a high-handed, malicious, arbitrary, and reprehensible manner and with complete disregard for Mario's rights. The Defendants' behaviour constitutes a marked departure from ordinary standards of decent behaviour. The particulars of which are the Defendants' actions were carried out in bad faith, were unprovoked and without just cause, carried out with an improper motive, out of a spirit of vengeance, spite, ill will, obstinacy, and anger, and not in furtherance of justice. As such, Mario states that the Defendants' actions as described above warrant an award of punitive and aggravated damages.

76. Mario pleads and relies upon the provisions of:

- a. the *Constitution Act*, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982 c 11;
- b. *Limitations Act*, 2002, S.O. 2002, c 24 Sch B;
- c. *Comprehensive Ontario Police Services Act*, 2019 S.O. 2019, c. 1;
- d. *Police Services Act*, R S O 1990, c P. 15;
- e. *Criminal Code*, R.S.C. 1985, c. C-46;
- f. *Canadian Charter of Rights and Freedoms*; and
- g. the *Negligence Act*, R.S.O., c N.1 as amended.

77. Mario proposes that the trial of this matter occur at Belleville, Ontario.

Date of Issue: May 13, 2022

FALCONERS LLP
10 Alcorn Avenue, Suite 204
Toronto, Ontario, M4V 3A9

Julian N. Falconer (LSUC No. 29465R)
Asha James (LSUC No. 56817K)

Tel: (416) 964-0494
Fax: (416) 929-8179
julianf@falconers.ca
ashaj@falconers.ca

Lawyers for the Plaintiff

MARIO BAPTISTE JUNIOR
PLAINTIFF

-and-

BELLEVILLE POLICE SERVICES BOARD ET AL.
DEFENDANTS

Court File No: **CV-19-00000446-0000**

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings Commenced in Belleville, Ontario

AMENDED AMENDED STATEMENT OF CLAIM

FALCONERS LLP
10 Alcorn Avenue
Suite 204
Toronto, Ontario M4V 3A9

Julian N. Falconer (LSUC No. 29465R)
Asha James (LSUC No. 56817K)

Tel: (416) 964-0495
Fax: (416) 929-8179

Lawyers for the Plaintiff