



Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Electronically issued : 28-Jan-2020  
Délivré par voie électronique  
Newmarket

**DAVID MENZIES**

Plaintiff

- and -

**YORK REGIONAL POLICE, JOHN DOE OFFICER #1,  
JOHN DOE OFFICER #2, JOHN DOE OFFICER #3**

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS:**

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 plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, 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.

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 PLAINTIFF'S CLAIM, and \$10,000.00 for costs, within the time for serving 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 plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

Date January 28, 2020

Issued by \_\_\_\_\_  
393 University Avenue,  
10<sup>th</sup> Floor  
Toronto, Ontario M5G 1E6

**TO: YORK REGIONAL POLICE**  
47 Don Hillock Drive  
Aurora, ON L4G 0S7

**AND**  
**TO: JOHN DOE OFFICER #1**  
47 Don Hillock Drive  
Aurora, ON L4G 0S7

**JOHN DOE OFFICER #2**  
47 Don Hillock Drive  
Aurora, ON L4G 0S7

**JOHN DOE OFFICER #3**  
47 Don Hillock Drive  
Aurora, ON L4G 0S7

**THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED  
PROCEDURE PROVIDED IN RULE 76 OF THE *RULES OF CIVIL PROCEDURE***

**CLAIM**

1. The plaintiff, David Menzies (“**Menzies**”) claims against the defendants, jointly and severally, for the following:
  - (a) Damages in the amount of \$50,000 comprised of general damages, special damages, aggravated and punitive damages;
  - (b) Pre and post judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (c) Costs of this action, including applicable taxes; and
  - (d) Such further and other relief as this Honourable Court deems just.

**THE PARTIES**

2. Menzies is an individual residing in the Province of Ontario. He is a broadcaster, journalist, correspondent, and political commentator with Rebel News Network Ltd. (“**Rebel News**”). At the material time, Menzies was acting in his capacity as a Canadian citizen and member of the public, as well as in his capacity as a broadcaster, journalist, correspondent and commentator with Rebel News.

3. The defendant, York Regional Police (“**YRP**”) is a police department that was formed pursuant to the *Police Services Act*, R.S.O. 1990, c. P.15 or its predecessor legislation in or around 1971 following the amalgamation of 14 municipal police departments and the York County Security Police. YRP is statutorily charged with and responsible in law for, *inter alia*, appointing members of the YRP, establishing objectives and priorities with respect to police

services in York Region, establishing policies for the effective management of the YRP, and ensuring that its members are properly trained. YRP employed various police constables at the material time, including the police officers cited as defendants in the within claim, and is therefore vicariously liable for the acts, omissions and unlawful conduct of the police constables and other YRP personnel referenced herein.

4. The YRP is obliged by statute and otherwise by common law to provide police services in a manner that safeguards the fundamental rights guaranteed by the *Charter* and in a fashion that ensures that its members conduct themselves lawfully in the execution or purported execution of their duties.

5. The defendant, John Doe Officer #1, is a police constable that was at the material time employed by YRP, and was working on active duty on or about January 12, 2020 at or near the Vaughan Metropolitan Centre near Jane & Highway 7 at approximately 7:15pm.

6. The defendant, John Doe Officer #2, is a police constable that was at the material time employed by YRP, and was working on active duty on or about January 12, 2020 at or near the Vaughan Metropolitan Centre near Jane & Highway 7 at approximately 7:15pm.

7. The defendant, John Doe Officer #3, is a police constable that was at the material time employed by YRP, and was working on active duty on or about January 12, 2020 at or near the Vaughan Metropolitan Centre near Jane & Highway 7 at approximately 7:15pm.

#### **JANUARY 12, 2020 – THE UNLAWFUL CONDUCT**

8. On or about January 12, 2020, Menzies attended public property near the Vaughan Metropolitan Centre near Jane & Highway 7 (the “**Centre**”). The purpose of Menzies’

attendance was to interview Ron MacLean (“**MacLean**”), who was scheduled to be in attendance at the Centre to film and promote an episode of Rogers Hometown Hockey (the “**Event**”).

9. While Menzies attempted to question MacLean, several officers (John Doe Officer #1, John Doe Officer #2 and John Doe Officer #3 and collectively, the “**YRP Officers**”) of the YRP surrounded him, physically assaulted and battered him by putting him in an aggressive bear hug without his consent and without provocation, knocked him over, verbally threatened him and prevented him from approaching MacLean further.

10. Menzies states and the fact is that the YRP Officers had no reasonable or probable grounds, and no basis in law in any event, to commit the torts of assault and/or battery upon Menzies, nor to threaten him.

11. Menzies states and the fact is that the conduct of the YRP Officers was malicious and an abuse of their authority as police officers.

12. Menzies further pleads that the YRP Officers used excessive, disproportionate and unauthorized force, and that the said assault and battery was completely unnecessary in all the circumstances of the case.

13. Menzies pleads that in all the circumstances, the unauthorized actions of the YRP Officers constitute the torts of assault and battery of an aggravated nature.

14. Menzies further pleads that the assault and battery, and damages that flow from same, were caused or materially contributed to by the negligence and breach of duty of the YRP in

failing to properly recruit, employ, supervise and train competent staff. Further particulars of the YRP's negligence will be provided prior to Trial.

15. Menzies states, and the fact is, that the YRP Officers changed their stories on the rationale for assaulting and battering Menzies, and for preventing him from exercising his *Charter*-entrenched mobility rights. At first, the YRP Officers submitted they would arrest Menzies for assaulting the YRP Officers, then they changed the story to saying Menzies would be arrested for criminal harassment, then they changed their rationale again stating that Menzies was trespassing (even though he was on public property at the material time) and finally they reverted back to criminal harassment.

16. Menzies states and the fact is that the YRP Officers attempted to change their rationale for confronting Menzies in an attempt to obfuscate from their unlawful behaviour.

17. Significantly, at no time did MacLean complain to Menzies that he was being harassed. Menzies states and the fact is that several days after the Event, MacLean actually spoke to Menzies and asked him if he was available for a sit-down interview, thereby implicitly confirming there was no ill-will as between MacLean and Menzies. The YRP Officers simply overreacted and exceeded the bounds of their authority.

## **SPOLIATION**

18. Menzies states and the fact is that the day following the tortious conduct by the YRP Officers, counsel for Menzies and Rebel News sent notice to the YRP of anticipated litigation and formally requested that the YRP preserve the video from the body cameras worn by the YRP Officers. Menzies pleads that if the said video has not been preserved, then it was deliberately

destroyed or concealed by the YRP and the YRP Officers to affect the litigation such that the defendants, or each of them, are liable for the tort of spoliation of evidence.

## **DAMAGES**

19. Menzies pleads that he has sustained damages as a result of the tortious conduct of the defendants, particulars of which will be provided prior to Trial. Menzies pleads in the alternative that damages for assault and/or battery are damages “at-large”.

20. Menzies pleads that given the role and strength of police *vis a vis* citizens and members of the public, police officers committing the tort of assault and/or battery – which are intentional torts – are particularly blameworthy such that aggravated and/or punitive damages are warranted.

21. Menzies pleads that the conduct of the YRP Officers is conduct that should be denounced and deterred.

## **RELIANCE ON STATUTES AND APPROPRIATE VENUE**

22. Menzies pleads and relies on the following statutes and regulations:

- (a) *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982
- (b) *Ontario Police Services Act*, R.S.O. 1990 c. P. 15
- (c) *Negligence Act*, R.S.O. 1990, c.N. 1

23. Menzies proposes that this action be tried in Newmarket.

**DATED:** January 28, 2020

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Lawyers for the Plaintiff



POLICE, et al.

-and-

Plaintiff

Defendants

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*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
**NEWMARKET**

**STATEMENT OF CLAIM**

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