

AUG 25 2014

No.
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JAMIE JANINE HALLER

PLAINTIFF

AND:

ANDY YUNG, JASON POLE, DANIEL HAY
and THE CITY OF WILLIAMS LAKE

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff 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

Parties

1. The Plaintiff, Jamie Janine Haller, was born September 4, 1994. She is a resident of Williams Lake. She has an address for service at 601-510 West Hastings Street, in the City of Vancouver, in the Province of British Columbia.
2. The Defendant, City of Williams Lake, has entered into an agreement under s.3 of the *Police Act*, RSBC 1996, c.367 with the provincial police service under which policing and law enforcement in the municipality is provided by the Royal Canadian Mounted Police ("RCMP"). The City of Williams Lake is responsible for any torts committed by its municipal constables pursuant to s.20 of the *Police Act*.
3. The Defendant, Andy Yung, is a member of the RCMP with the rank of Constable, and is stationed at the Williams Lake detachment in the capacity of a municipal constable.
4. The Defendant, Jason Pole, is a member of the RCMP at the rank of Corporal, and is stationed at the Williams Lake detachment in the capacity of a municipal constable.
5. The Defendant, Daniel Hay, is a member of the RCMP at the rank of Constable, and is stationed at the Williams Lake detachment in the capacity of a municipal constable.

Tortious Conduct

6. On the evening of September 10, 2011, the Plaintiff was walking home alone in an isolated area of Williams Lake after socializing with friends. For reasons unknown to the Plaintiff, five or six young men who were strangers to the Plaintiff began to approach her. The Plaintiff was fearful for her physical and sexual safety and fled through a wooded area and through neighbourhood backyards and some of the young men chased her. The Plaintiff was panicked and distressed and called loudly for help.
7. While moving through the backyards, the Plaintiff was approached by a female homeowner. She asked a female homeowner to call the police, and the female

homeowner did so while the Plaintiff moved on. The Plaintiff moved on and found a place in the dark behind a fence to hide to wait for the police to arrive.

8. The Defendant Andy Yung approached the Plaintiff in clandestine fashion in the dark from behind the fence and, without announcing his presence or police status or turning on his flashlight, tackled the Plaintiff, threw her to the ground, dragged her into a more open area, pressed her face-down onto the ground, and then he or the Defendant Jason Pole handcuffed her hands behind her back. Prior to tackling the Plaintiff, the Defendant Andy Yung knew that the Plaintiff had not committed any crime and was not a threat to him.
9. The Plaintiff was scared and confused and initially believed that she was being attacked by one or more of the young men who had been chasing her. When she realized that the person who had grabbed her was a police officer, the Plaintiff protested and advised the Defendant Andy Yung in clear terms that she was the person who had asked for the police to be called and that she had committed no crime. She demanded to be released from the handcuffs.
10. The Defendants Andy Yung and Jason Pole refused to release the Plaintiff from the handcuffs. The Plaintiff became angry and loudly and directly accused the Defendants Andy Yung and Jason Pole of committing an injustice by confining her in handcuffs and treating her as a suspect. The Plaintiff began to panic and fear for her safety.
11. Andy Yung appeared to take offence at the Plaintiff's words and told her to shut up. When the Plaintiff refused to stop demanding her release, the Defendant Andy Yung locked her in the back of a police cruiser while she was still in handcuffs. The Plaintiff continued to demand her release and kicked the inside door of the police cruiser. The Defendant Andy Yung warned the Plaintiff to stop kicking the inside door of the police cruiser, "or else". The Defendant Daniel Hay opened the rear driver's side door of the police cruiser and held the Plaintiff's legs while the Defendant Andy Yung opened the rear passenger door of the police cruiser and repeatedly struck the plaintiff in the face with his fist at full force.

12. The Defendants Andy Yung and Daniel Hay then agreed amongst themselves, and with other RCMP members known to themselves, to dishonestly blame the Defendant Yung's assault of the Plaintiff on the Plaintiff by alleging that she had attacked the Defendant Yung by lifting her legs above her own head in the cruiser and trapping his head in a leghold while she was handcuffed on her back, with her hands behind her back, in the police cruiser.

Misfeasance and Wrongful Prosecution

13. The Plaintiff's mother, the Plaintiff and the British Columbia Civil Liberties Association brought forward a complaint of officer misconduct under the *Police Act* on September 27, 2011. In response to the complaint, RCMP E Division asked Abbotsford Police Department ("APD") to conduct an independent investigation in order to preserve public confidence in the Williams Lake RCMP. RCMP E Division directed the Williams Lake RCMP Detachment that the APD was to investigate both the Plaintiff's allegation of excessive force and the allegation that the Plaintiff had precipitated the violence against her by assaulting a police officer. The Defendants were aware of the direction from E Division.

14. Contrary to the direction from E Division that the APD was to investigate the allegation that the Plaintiff had assaulted an officer, the Defendants continued to investigate the Plaintiff and prepared and delivered a Report to Crown Counsel (the "RTCC") recommending charges against the Plaintiff.

15. The RTCC prepared by and under the direction of one or more of the Defendants or members of the Williams Lake RCMP detachment, who are not known to the Plaintiff, was deficient in the following respects:

- a. The RTCC failed to report that the APD were investigating the incident for the RCMP;
- b. The RTCC failed to report that the Defendant Andy Yung had tackled and handcuffed the Plaintiff before putting her in the back of the police cruiser and before striking her in the face; and

c. The RTCC failed to report that the Defendant Andy Yung had struck the Plaintiff while she was in handcuffs.

16. The RTCC was dishonest, malicious, willfully prepared, or at the least, grossly negligent.

17. The Defendants knew or should have known that misrepresenting or not reporting the relevant information would cause Crown Counsel to approve or refuse charges before the APD investigation was complete and would undermine the efficacy and role of the APD investigation.

18. In reliance on the RTCC, Crown Counsel approved charges against the Plaintiff. The charges were later stayed after Crown Counsel learned of that the APD had been assigned to conduct the investigation of the Plaintiff.

Failure to Investigate

19. Since the Defendant Yung assaulted the Plaintiff, the Plaintiff and her mother have contacted the police emergency line on at least four occasions asking for police assistance in respect of unrelated arson and serious property damage. On these occasions, the RCMP members refused to attend to the scene, refused to investigate and refused to take statements.

Injuries

20. The Defendants' conduct caused or contributed to the following injuries and harms to the Plaintiff:

- a. Severe bruising on her face, arms, knees and shins;
- b. Haemorrhage of the eye;
- c. Pain and trauma;
- d. Headaches;
- e. Blurred vision;
- f. Lacerations to the inside of her mouth from orthodontic braces;
- g. Shock and distress;

h. Post-traumatic stress disorder;

21. The Defendants' conduct contributed to the Plaintiff's distrust of the administration of justice and fomented her distrust of police and public authorities.

22. The Defendant also lost some income from her job at a restaurant. Her manager told her that her visible injuries were too alarming for her to be working directly with the public.

Part 2: RELIEF SOUGHT

1. The Plaintiff claims against the Defendants, and each of them for:

- (a) general and special damages;
- (b) punitive, aggravated and exemplary damages;
- (c) *Charter* damages in the form of an award to vindicate the Plaintiff's rights and an award to compensate the Plaintiff for the infringement of her rights;
- (d) interest pursuant to the Court Order Interest Act, R.S.B.C. 1996, c. 79;
- (e) costs; and
- (f) such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

1. The Plaintiff claims for battery, wrongful arrest, malicious prosecution, misfeasance in public office, and breach of s.7, 9, 10(a) and 10(b) of the *Charter of Rights and Freedoms*. The Plaintiff also claims for failure to protect and failure to investigate her reports to police.

Plaintiff's address for service:

Gratl & Company
Barristers and Solicitors
601-510 West Hastings Street
Vancouver, BC V6B 1L8
Attn: Jason Gratl

Fax number for service: 604-608-1919

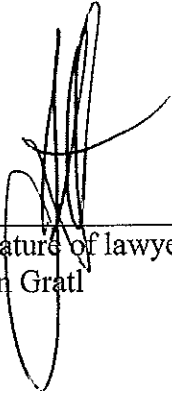
E-mail address for service (if any): n/a

Place of trial: Vancouver

The address of the registry is:

The Supreme Court of British Columbia
800 Smithe Street
Vancouver, British Columbia
V6Z 2E1

Date: August 20, 2014



Signature of lawyer for plaintiff
Jason Gratl

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Members of Williams Lake detachment of RCMP arrested the plaintiff without grounds after she requested police presence, punched her in the face while she was in handcuffs, and trumped up charges of assaulting an officer.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

a motor vehicle accident

medical malpractice

another cause

A dispute concerning:

contaminated sites

construction defects

real property (real estate)

personal property

the provision of goods or services or other general commercial matters

investment losses

the lending of money

an employment relationship

a will or other issues concerning the probate of an estate

a matter not listed here

Part 3: THIS CLAIM INVOLVES:

a class action

maritime law

aboriginal law

constitutional law

conflict of laws

none of the above

Part 4:

Canadian Charter of Rights and Freedoms, ss.7 and 24(1)