

# CLAIM

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## I. RELIEF CLAIMED

1. The Plaintiffs, Isabelle Justice and Mark Justice, claim against the Defendants,

Ottawa Police Services Board, Steven Desjourdy, Melburn White, Christopher Tessier, Cedric Nizman, His Majesty the King in Right of Ontario, and the Attorney General of Ontario:

- (a) damages for malicious prosecution, misfeasance in public office, abuse of process, abuse of process (prosecutorial), intimidation, unlawful means conspiracy, negligent investigation, negligence, intrusion upon seclusion, intentional infliction of emotional distress, false arrest, false imprisonment, trespass to chattels, and breaches of sections 2, 7, 8, 9, 10, 11, 12, and 15 of the *Canadian Charter of Rights and Freedoms* (“**Charter**”), in the amount of \$17,000,000.00 (seventeen million dollars), or such other amount as this Honourable Court deems just;
- (b) punitive damages in the amount of \$1,000,000.00 (one million dollars), or such other amount as this Honourable Court deems just;
- (c) aggravated damages in the amount of \$1,000,000.00 (one million dollars), or such other amount as this Honourable Court deems just;
- (d) pecuniary damages, including loss of income, loss of earning capacity, lost revenue, medical expenses, and other out-of-pocket costs, in an amount to be particularized and disclosed prior to trial;

- (e) remedies pursuant to section 24(1) of the *Charter* for the infringement of the Plaintiffs' constitutional rights, including an award of damages that is just and appropriate in the circumstances;
  - (f) pre-judgment and post-judgment interest on all amounts claimed, excluding punitive damages, pursuant to sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (g) costs of this action on a full indemnity basis, or in the alternative, on a substantial indemnity basis, together with all applicable taxes; and
  - (h) such further and other relief as this Honourable Court deems just.
2. As against the Defendant Steven Desjourdy, the Plaintiffs claim:
- (a) a declaration that Steven Desjourdy knowingly and unlawfully caused criminal proceedings to be initiated against Isabelle Justice and Mark Justice, without reasonable and probable grounds, and for an improper purpose.
3. As against Defendants Steven Desjourdy, Christopher Tessier, and Cedric Nizman, the Plaintiff Mark Justice claims:
- (a) a declaration that Steven Desjourdy, Christopher Tessier, and Cedric Nizman violated Mark Justice's right not to be arbitrarily detained or imprisoned, as guaranteed by section 9 of the *Charter*.

4. As against Defendants His Majesty the King in Right of Ontario and the Attorney General of Ontario, the Plaintiffs claim:

- (a) a declaration that the actions of Mark Holmes, David Rodgers, Moiz Karimjee, and Malcolm Savage, acting in their capacity as Crown prosecutors, constituted a prosecutorial abuse of process giving rise to a distinct and actionable tort at common law; and
- (b) a declaration that prosecutorial abuse of process constitutes a distinct and actionable tort at common law, arising from the deliberate misuse of prosecutorial authority through procedural, strategic, or evidentiary mechanisms for an improper or collateral purpose, and capable of grounding civil liability where the harm flows from the misuse of the legal process itself.

5. As against the Defendant His Majesty the King in Right of Ontario, the Plaintiffs claim:

- (a) an order pursuant to section 17(2) of the *Crown Liability and Proceedings Act*, 2019, S.O. 2019, c. 7, Sched. 17 (“***Crown Liability and Proceedings Act***”), granting leave to proceed with their claim for damages against His Majesty the King in Right of Ontario; and
- (b) pre-judgment and post-judgment interest on all amounts claimed, excluding punitive damages, pursuant to section 26 of the *Crown Liability and Proceedings Act*, as amended.

## II. NATURE OF THE ACTION

6. This action arises from the deliberate and unlawful weaponization of the Canadian criminal justice system to retaliate against and suppress the Plaintiffs, Mark Justice and Izabelle Justice (together, the “**Justices**”). Over a five-year period, members of the Ottawa Police Service and the Ottawa Crown Attorney’s Office (“**OCAO**”) engaged in a sustained and coordinated abuse of power, pursuing three meritless criminal prosecutions meticulously designed to intimidate, exhaust, and silence the Justices.

7. Police officers Steven Desjourdy, Melburn White, Christopher Tessier, and Cedric Nizman acted in concert with Crown prosecutors Emilie Farrell, Mark Holmes, David Rodgers, Moiz Karimjee, and Malcolm Savage, knowingly and deliberately engaging in a malicious and unlawful campaign that inflicted severe and irreparable harm on the Justices.

8. The Justices were subjected to a prolonged and baseless prosecution, initiated and advanced by Officers Desjourdy and White following a grossly negligent investigation, and sustained through the active complicity of prosecutors from the OCAO. These prosecutions were devoid of legal or evidentiary foundation and were instead driven by malice, retaliation, and a calculated intent to suppress the Justices' advocacy and undermine their credibility.

9. The Justices’ prosecution was a deliberate act of retaliation for their efforts to investigate and expose police misconduct. As civilian investigators, they uncovered and documented serious allegations of corruption, abuse of authority, and systemic misconduct within the Ottawa Police Service. Their findings, which threatened to bring scrutiny and accountability to the force, made them targets of a coordinated effort to marginalize and delegitimize them.

10. In response, Officers White and Desjourdy fabricated criminal charges and orchestrated a false arrest, abusing their authority in a retaliatory effort to silence the Justices for their widely publicized criticisms of the officers' prior allegations of police misconduct. Crown prosecutor Emilie Farrell, in wilful dereliction of her duty to conduct proper charge screening, knowingly advanced meritless charges despite the glaring absence of any legal or evidentiary foundation. Rather than fulfilling her duty as a minister of justice, she weaponized the prosecution process, prioritizing personal ambition over fundamental fairness—perverting the justice system to bolster her conviction record at the expense of justice.

11. Following Farrell's abrupt and suspicious withdrawal from the case, the Justices formally notified the OCAO and the Attorney General of Ontario of their intent to pursue civil litigation upon the conclusion of the criminal proceedings. In direct response, OCAO prosecutors escalated, prolonged, and manipulated the baseless prosecution, weaponizing the criminal process to obstruct and impair the Justices' ability to seek civil remedies while simultaneously shielding themselves from both legal and professional accountability.

12. Prosecutors Holmes, Rodgers, Karimjee, and Savage, acting in concert with Officer Desjourdy, engaged in forum shopping, willfully suppressed exculpatory evidence, and knowingly presented inadmissible material—all as part of a deliberate and calculated scheme to manufacture a conviction and shield themselves from scrutiny.

13. Public scrutiny intensified following the release of the viral video *Unlawful Intimidation*, which captured Officers Tessier and Nizman unlawfully detaining Mark Justice inside his vehicle for over two hours in a shopping plaza parking lot—without an arrest warrant, lawful authority, or reasonable suspicion. Acting under the direct orders of Officer Desjourdy, the officers coerced

Justice into signing a police undertaking predicated on fabricated charges—an act of intimidation deliberately orchestrated to circumvent judicial oversight and initiate baseless legal proceedings. The video, viewed by millions, ignited national outrage and provoked widespread condemnation of the officers’ misconduct.

14. As the criminal proceedings unfolded, the case against the Justices collapsed under the weight of evidentiary failures, *Charter* breaches, and procedural misconduct. After years of protracted litigation—during which the Justices challenged the prosecution’s constitutionality under sections 7, 8, 9, 10, 11, and 12 of the *Charter*—Crown prosecutor David Rodgers ultimately admitted that the police’s purported justification for laying charges had never been disclosed to the Justices. This admission irrefutably confirmed what the Justices had consistently maintained from the outset: that they had been subjected to a vindictive, unfounded, and politically motivated prosecution.

15. The turning point came during a pivotal motion heard on May 6 and 7, 2024, in which the Justices sought the recusal of Crown prosecutor Malcolm Savage and the appointment of an out-of-town or independent Crown prosecutor. Before the Court could render its decision, Savage abruptly directed a stay of proceedings following three and a half years of relentless pursuit by the OCAO, advanced through no fewer than ten of its prosecutors—a decision explicitly influenced by this pending action, among other factors. This admission exposed the OCAO’s recognition of the Crown’s civil exposure, while the timing of the stay—delivered immediately prior to a judicial determination on prosecutorial misconduct and in anticipation of an *abuse of process* application scheduled for a full week of court time—revealed a calculated effort to evade judicial scrutiny and preempt an adverse ruling.



16. For 1,782 consecutive days, the Justices endured an unrelenting campaign of legal persecution, orchestrated by state actors who weaponized their authority as a tool of retaliation and oppression. Stripped of financial resources and unable to retain legal counsel, the Justices had no choice but to navigate the complexities of the justice system alone, dedicating thousands of hours to mastering criminal, constitutional, and procedural law—not by choice, but out of necessity. Their struggle was a grueling, exhausting battle for survival, fought in forced isolation against authorities intent on crushing them through procedural warfare and state-sanctioned misconduct.

17. The wrongful prosecution inflicted severe, lasting, and irreparable harm on the Justices. As highly successful business executives in Ontario's energy sector, they were systematically stripped of their professional standing, financial stability, and hard-earned reputational integrity. Their business was obliterated, their livelihoods destroyed, and their personal security jeopardized—forcing them, as a matter of survival, to legally change their names to escape the inescapable and enduring consequences of the unlawful acts committed by those entrusted with upholding the law.

18. The conduct of Ottawa Police Service officers, enabled and actively facilitated by prosecutors within the OCAO, constitutes a profound breach of public trust and a direct affront to the administration of justice. The rule of law demands unwavering accountability from those sworn to uphold it. When police officers and Crown prosecutors weaponize their authority to persecute innocent individuals through baseless prosecutions, procedural abuses, and the suppression of exculpatory evidence, they do not merely violate the rights of those directly harmed—they corrode the very foundations of a free and democratic society.

19. This Honourable Court is now called upon to unequivocally condemn these egregious abuses, hold the Defendants fully accountable, and reaffirm—without reservation—its unwavering commitment to the fundamental principles of justice, fairness, and the supreme imperative of the rule of law.

### III. THE PARTIES

#### Plaintiffs

##### Mark Justice

20. The Plaintiff Mark Justice (“**Mr. Justice**”) is a 43-year-old resident of the City of Ottawa, in the Province of Ontario. He is a business owner, civilian investigator, and entrepreneur. At all material times, Mr. Justice was legally known as Mark Cunningham but was also recognized as Mark Justice in his capacity as a volunteer civilian investigator. On or about July 17, 2024, he legally changed his name pursuant to the *Change of Name Act*, R.S.O. 1990, c. C.7 (“***Change of Name Act***”).

21. Before the events giving rise to this claim, Mr. Justice enjoyed a thriving and highly successful career as co-founder, President, and direct shareholder of Canadian Energy Protection Corp. (“**CEPC**”). Under his leadership, CEPC became a leading provider of natural gas and electricity services to residential, commercial, and industrial consumers across Ontario.

22. At all material times, Mr. Justice was co-founder, President, and a direct shareholder of CEPC.

## Izabelle Justice

23. The Plaintiff Izabelle Justice (“**Mrs. Justice**”) is a 39-year-old resident of the City of Ottawa, in the Province of Ontario. She has been married to Mr. Justice for 18 years and is a business owner, civilian investigator, and entrepreneur. At all material times, Mrs. Justice was legally known as Isabelle Cunningham but was also recognized as Iz Justice in her capacity as a volunteer civilian investigator. On or about July 17, 2024, she legally changed her name pursuant to the *Change of Name Act*.

24. Before the events giving rise to this claim, Mrs. Justice enjoyed a thriving and highly successful career as co-founder, Vice-President, and direct shareholder of CEPC. As a key executive, she was instrumental in driving CEPC’s strategic growth, optimizing its operations, and expanding its market reach—cementing its position as a leading energy provider.

25. At all material times, Mrs. Justice was co-founder, Vice-President, and a direct shareholder of CEPC.

## Defendants

### Staff Sergeant Steven Desjourdy

26. At all material times, the Defendant Staff Sergeant Steven Desjourdy (“**S/Sgt. Desjourdy**”) was a sworn member of the Ottawa Police Service. He initially held the rank of Sergeant, was subsequently promoted to Acting Staff Sergeant, and later attained the rank of Staff Sergeant. In addition to his supervisory roles, he also served as an Investigator.

27. In the course of his duties, S/Sgt. Desjourdy initiated criminal proceedings against the Plaintiffs under the *Criminal Code*, R.S.C., 1985, c. C-46, as amended (“***Criminal Code***”). He also participated in the broader investigation concerning the Plaintiffs.

#### Detective Melburn White

28. At all material times, the Defendant Detective Melburn White (“**Det. White**”) was a sworn member of the Ottawa Police Service and held the rank of Detective.

29. In the course of his duties, Det. White laid a charge against Mr. Justice under the *Residential Tenancies Act*, 2006, S.O. 2006, c. 17, as amended (“***RTA***”). He also participated in the broader investigation concerning the Plaintiffs.

30. To the best of the Plaintiffs’ knowledge, Det. White is no longer employed as a police officer with the Ottawa Police Service.

#### Constable Christopher Tessier

31. At all material times, the Defendant Constable Christopher Tessier (“**Cst. Tessier**”) was a sworn member of the Ottawa Police Service and held the rank of Constable.

32. In the course of his duties and acting under the direction of S/Sgt. Desjourdy, Cst. Tessier detained Mr. Justice. He also participated in the broader investigation concerning the Plaintiffs.

33. To the best of the Plaintiffs’ knowledge, Cst. Tessier has since been promoted to Sergeant.

## Constable Cedric Nizman

34. At all material times, the Defendant Constable Cedric Nizman (“**Cst. Nizman**”) was a sworn member of the Ottawa Police Service and held the rank of Constable.

35. In the course of his duties and acting under the direction of S/Sgt. Desjourdy, Cst. Nizman participated in the detention of Mr. Justice. He also participated in the broader investigation concerning Mr. Justice.

36. To the best of the Plaintiffs’ knowledge, Cst. Nizman ceased employment with the Ottawa Police Service for a period and has since been rehired.

## Ottawa Police Services Board

37. The Defendant Ottawa Police Services Board (“**OPSB**”) is a municipal police services board constituted pursuant to the *Community Safety and Policing Act*, 2019, S.O. 2019, c. 1, Sched. 1, as amended (“***Community Safety and Policing Act***”). At all material times, OPSB was responsible for the provision of police services and law enforcement in the City of Ottawa, in the Province of Ontario.

38. By virtue of section 47(1) of the *Community Safety and Policing Act* and the principles of vicarious liability at common law, OPSB is vicariously liable for the acts and omissions of its police officers committed in the course of their employment.

## Attorney General of Ontario

39. The Defendant Attorney General of Ontario (“**Attorney General**”) is the Chief Law Officer of the Province of Ontario and bears ultimate responsibility for the administration of justice, including the prosecution of individuals charged with criminal and regulatory offences.

40. By virtue of sections 8(1) and 8(2) of the *Ministry of the Attorney General Act*, R.S.O. 1990, c. M.17, as amended (“**Ministry of the Attorney General Act**”), the Attorney General is named as a Defendant to assume statutory liability for the following individuals:

- (a) Assistant Crown Attorney Emilie Farrell (“**A.C.A. Farrell**”);
- (b) Deputy Crown Attorney Mark Holmes (“**D.C.A. Holmes**”);
- (c) Assistant Crown Attorney David Rodgers (“**A.C.A. Rodgers**”);
- (d) Assistant Crown Attorney Moiz Karimjee (“**A.C.A. Karimjee**”); and
- (e) Assistant Crown Attorney Malcolm Savage (“**A.C.A. Savage**”).

41. At all material times, each of these Crown Attorneys had carriage of a criminal prosecution against the Plaintiffs arising from charges initiated by S/Sgt. Desjourdy. Each of these Crown Attorneys acted within the scope of their prosecutorial functions and is not named as an individual Defendant. Instead, the Attorney General assumes statutory liability for their actions in this proceeding.

His Majesty the King in Right of Ontario

42. The Defendant His Majesty the King in Right of Ontario (“**Crown**”) is named as a Defendant pursuant to section 8(1) of the *Crown Liability and Proceedings Act*. By virtue of this statute, the Crown bears statutory liability for torts committed by its officers, employees, and agents in the course of their employment. Additionally, the Crown is vicariously liable at common law for wrongful acts committed within the scope of their duties.

43. The Crown is named as a Defendant in this proceeding on behalf of the Attorney General, who assumes responsibility for the actions of A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage in accordance with sections 8(1) and 8(2) of the *Ministry of the Attorney General Act*.

#### **IV. FACTS SUPPORTING THE CLAIM**

##### **The Ottawa Police Issue a Retaliatory Threat**

44. In or about November 2011, prior to the events giving rise to this claim, the Justices became aware that individuals engaged in unlawful financial activities had targeted the National Distribution office for A.E., which they operated in Ottawa. They further discovered that certain members of their workforce had undisclosed affiliations with these individuals and had engaged in conduct intended to misappropriate company funds from A.E.’s corporate headquarters in Burlington through its Ottawa office.

45. Between November 2011 and July 2012, the Justices meticulously monitored these activities, conducting surveillance and compiling evidence in anticipation of law enforcement intervention. In doing so, they uncovered indications that the network's influence extended beyond its known members. Alarming, the Justices observed conduct suggesting that certain respected community figures, including individuals within law enforcement, may have maintained undisclosed affiliations with those involved in these illicit activities.

46. In or about July 2012, in pursuit of law enforcement intervention, the Justices arranged a private, after-hours meeting at A.E.'s National Distribution office, then located at 35 Auriga Dr. in Ottawa. The meeting was attended by two senior officers of the Ottawa Police Service, who identified themselves as Officers G.L. and M.F. The explicit purpose of the meeting was to present the evidence the Justices had gathered and formally request an investigation into the identified misconduct.

47. Rather than acknowledging the Justices' concerns or initiating an inquiry, the officers issued a direct and unequivocal warning: "You're going to pretend like this never happened." They further cautioned, "If you try to expose this, you'll be met with serious consequences." The officers also warned that even acknowledging the meeting's existence would result in repercussions.

48. The Justices understood these statements as a direct and deliberate act of intimidation intended to silence them. Given the officers' tone, context, and demeanor—combined with their senior positions within the Ottawa Police Service—these warnings were not perceived as mere cautionary statements but as coercive attempts to deter the Justices from pursuing further action. The Justices further understood the officers' message as a clear indication that any effort to



expose the identified misconduct would be met with retaliation from members of the Ottawa Police Service. Reinforcing this threat, the officers warned, “We’ll tell people you’re crazy and can’t be trusted.”

49. Despite this overt threat, the Justices remained resolute in their commitment to investigating and exposing misconduct and corruption, fully aware of the risks involved. The experience only reinforced their belief that law enforcement misconduct demanded independent civilian oversight. In response, they founded the Civilian Investigation Group (“CIG”), an independent, civilian-led organization dedicated to uncovering and publicly exposing serious misconduct by public office holders, including law enforcement officers. CIG operates as a whistleblower-driven investigative body, receiving and scrutinizing allegations of wrongdoing to ensure public accountability.

50. Through CIG, the Justices publicly advocated against what they perceived as systemic failures within the Ottawa Police Service, particularly the persistent lack of accountability for police misconduct. From April 2013 until Det. White’s first contact with Mrs. Justice in May 2019, the Justices were recognized public critics of how allegations of police misconduct were addressed. Their advocacy included documented criticism of S/Sgt. Desjourdy’s high-profile criminal case, in which he was acquitted of criminal wrongdoing in 2013 but later found guilty of discreditable conduct under the *Police Services Act*, R.S.O. 1990, c. P.15, in 2014. The Justices also publicly condemned the alleged misconduct of Det. White in a matter involving other officers, which, although predating 2017, came to their attention that year through publicly accessible sources.

## The Negligent Investigation

51. On May 28, 2019, Det. White was the first of the Defendants to contact Mrs. Justice. During their conversation, he explicitly stated that he and his supervisor, S/Sgt. Desjourdy, were using their positions within the Ottawa Police Service to orchestrate a targeted campaign of retaliation against Mr. Justice. He further admitted that they had improperly exercised their police discretion by exhausting every possible avenue to fabricate charges under the *Criminal Code* but were ultimately unable to do so.

52. Mrs. Justice was stunned when Det. White admitted that he and S/Sgt. Desjourdy had “been waiting a long time for a reason to investigate [Mr. Justice].” This statement unequivocally confirmed that they had actively sought a basis to investigate him following his publicly expressed criticisms of their conduct. It suggested a long-standing intent to scrutinize him and raised serious concerns about a potential misuse of police authority driven by extraneous considerations rather than legitimate law enforcement objectives.

53. Det. White then taunted Mrs. Justice, detailing how he and S/Sgt. Desjourdy had deliberately attempted to formulate *Criminal Code* charges against Mr. Justice—despite knowing they lacked reasonable and probable grounds. His admission unveiled a premeditated effort to weaponize the justice system as a tool of reprisal, demonstrating a reckless disregard for due process and the rule of law.

54. The specifics of the officers’ malicious, unlawful, and retaliatory conduct, as described by Det. White, include but are not limited to the following:

- (a) the officers conducted a criminal investigation based on allegations made against the Justices by their former landlord, C.U. (“**Complainant Landlord**”);
- (b) the officers claimed to have uncovered evidence suggesting that Mr. Justice had engaged in conduct amounting to a quasi-criminal offence under section 234(v) of the *RTA*;
- (c) the officers actively sought to escalate the matter by pursuing *Criminal Code* charges, despite fully acknowledging that they lacked the necessary legal grounds to justify such escalation; and
- (d) the officers exhausted investigative resources in an attempt to justify laying *Criminal Code* charges against Mr. Justice, admitting that they had “tried everything in the book to pin criminal charges on [Mr. Justice]”—an effort that ultimately failed.

55. Det. White then expressed his frustration to Mrs. Justice, admitting that he and S/Sgt. Desjourdy were “disappointed” that they had been forced to conclude the case did not meet the requisite threshold for *Criminal Code* charges. He then made a direct and unequivocal statement, affirming that further law enforcement action would be taken against Mr. Justice at the first available opportunity, irrespective of legal merit: “Don’t worry, we’ll find another way to get your husband.”

56. His tone was overtly hostile—deliberately calculated to intimidate, instill fear, and assert dominance over Mrs. Justice. This statement, made in the context of an admitted lack of

reasonable and probable grounds, demonstrates a deliberate intent to misuse police authority for retaliatory purposes.

57. In a state of desperation, Mrs. Justice pleaded with Det. White to cease his retaliatory threats. She disclosed that, after enduring eleven years of infertility, she was finally carrying what she and Mr. Justice regarded as their miracle child. Her pregnancy had been classified as high-risk, and she implored him to stop, emphasizing that the extreme stress he was inflicting could result in devastating complications—or even the loss of her unborn child.

58. Rather than expressing any concern, Det. White exhibited outright indifference, appearing to take satisfaction in Mrs. Justice’s distress and the power he exercised over her and her family.

59. Det. White’s conduct constituted an egregious and unlawful abuse of authority, inflicting severe emotional and psychological harm on the Justices. His actions caused profound distress, including intense fear, anxiety, panic, and debilitating depression. Further, his conduct demonstrated a reckless disregard for fundamental principles of justice and due process.

60. On or about May 28, 2019, Det. White formally laid a charge against Mr. Justice under section 234(v) of the *RTA*. This charge was laid through a sworn information under section 23 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 (“*POA*”), and was set out as follows:

*[Mr. Justice]*

*On or about the 21st day of March in the year 2019, at the City of Ottawa in the East/De L'Est Region, did commit the offence of furnishing false or misleading information in any material filed in any proceeding under the [RTA] or providing false or misleading information to the Board, an employee of the Board, an*

*official of the Board, an inspector, investigator, the Minister, or a designate of the Minister, contrary to section 234(v) of the [RTA].*

61. The particulars of the allegations included but were not limited to the following:
- (a) that in March 2019, during a proceeding before the Landlord and Tenant Board (“LTB”), Mr. Justice knowingly submitted fraudulent Interac e-transfer rent receipts, falsely representing that he had made monthly rent payments of \$1,800 from August 2018 to January 2019;
  - (b) that Mr. Justice intentionally misled the LTB adjudicator by fraudulently creating the false impression that he had made the requisite rent payments when, in fact, no such payments had been made;
  - (c) that in April 2019, based on allegedly fraudulent misrepresentations, the LTB issued an order in favour of the Justices and against the Complainant Landlord concerning purported rent arrears;
  - (d) that Mrs. Justice was present at the March 2019 LTB hearing but did not engage in or contribute to the alleged offence;
  - (e) that the LTB retained full jurisdiction to rectify the matter by rescinding the prior order in favour of the Justices and substituting it with an order in favour of the Complainant Landlord;
  - (f) that, given the LTB’s broad jurisdictional authority, the allegations did not meet the requisite threshold for a *Criminal Code* offence and, instead, fell exclusively

under the *RTA*; accordingly, the case remained within the jurisdiction of Provincial Prosecutor Heather Woodside, who proceeded with the matter in Provincial Offences Court; and

(g) that the police investigation had been concluded.

62. The charge laid by Det. White engaged Mr. Justice's rights under section 11 of the *Charter* as a person charged with an offence, while any state action affecting his life, liberty, or security of the person was required to conform to the principles of fundamental justice under section 7.

63. Det. White's decision not to charge Mrs. Justice also engaged her rights under section 7 of the *Charter*, protecting her against any future state action concerning the same allegations unless demonstrably justified in accordance with the principles of fundamental justice.

64. The Justices plead that Det. White's investigation was conducted in a manner that violated the principles of fundamental justice, rendering any evidence obtained inadmissible. In the alternative, even if reasonable and probable grounds had existed, law enforcement was legally obligated to uncover new evidence before laying any additional charges.

65. In or about June 2019, following the charge against Mr. Justice, the LTB conducted an internal review. Relying on Det. White's testimony, the LTB overturned its prior order in favour of the Justices, issuing a new order that required them to pay the full amount of rent arrears claimed by the Complainant Landlord and terminated their 11-year tenancy.

66. In June 2019, S/Sgt. Desjourdy and two officers attended the Justices' new residence, "2589", to serve a summons for Mr. Justice, issued at the direction of Det. White. While present, they openly remarked on the high value of 2589 and made pointed comments regarding the Justices' property and financial status. S/Sgt. Desjourdy expressly assured Mrs. Justice that no further investigation would take place and that no *Criminal Code* charges would be laid.

67. However, despite these explicit assurances, it later became evident that S/Sgt. Desjourdy continued an independent investigation into the Justices for approximately 19 additional months. During this period, he actively sought any conceivable basis—no matter how insubstantial—to justify laying new *Criminal Code* charges against them, despite having already determined that no reasonable and probable grounds existed.

68. For nearly two years, from June 2019 to January 2021, S/Sgt. Desjourdy conducted an unwarranted and grossly negligent investigation, scrutinizing 2589—the Justices' high-value residence—in an apparent effort to manufacture a pretext for further allegations.

69. Throughout this period, the Justices meticulously documented multiple instances of targeted and sustained police surveillance. These included unmarked police vehicles stationed near their home and business, unexplained law enforcement presence, and repeated encounters with officers actively monitoring their movements. The consistency and nature of these interactions strongly indicated an ongoing investigative effort designed to uncover a basis for further legal action—regardless of evidentiary merit.

70. As a direct result, the Justices endured severe and prolonged psychological distress—including anxiety, panic, dissociation, and depression—while living under the constant

and unjustified fear that fabricated *Criminal Code* charges could be laid against them at any moment.

### **The First Series of Unfounded Criminal Charges**

71. After nearly two years of sustained investigative efforts, S/Sgt. Desjourdy failed to uncover any evidence that could lawfully justify laying additional charges against the Justices. Rather than acknowledge the absence of incriminating evidence, he selectively manipulated aspects of Det. White's investigative record—obscuring fundamental evidentiary deficiencies to manufacture a pretext for continued prosecution. In a clear abuse of authority, he initiated criminal proceedings against the Justices, falsely charging them with multiple indictable offences under the *Criminal Code*. His actions constituted a deliberate and unlawful misuse of the justice system, devoid of legal foundation and in direct contravention of the principles of fundamental justice and due process.

72. In an unjustified escalation, S/Sgt. Desjourdy reintroduced allegations that were already pending adjudication in Provincial Offences Court under the *RTA*—now repackaged as *Criminal Code* offences. His decision to lay charges disregarded the binding and final jurisdiction of the LTB, which had already rendered adjudicated rulings and implemented corrective measures addressing the allegations. Moreover, it failed to account for the ongoing prosecution of Mr. Justice on materially identical allegations, rendering the initiation of separate criminal proceedings legally untenable and procedurally unfair.



73. By disregarding the totality of the circumstances, S/Sgt. Desjourdy's investigation improperly manufactured an appearance of criminality where none existed—selectively omitting exculpatory evidence and mischaracterizing matters that had already been adjudicated or remained the subject of ongoing legal proceedings as independent criminal offences.

74. On or about January 25, 2021, and January 29, 2021, S/Sgt. Desjourdy proceeded with charges, falsely presenting the findings of Det. White's prior investigation as his own. He jointly charged the Justices with multiple indictable offences—collectively referred to as the "First Criminal Information"—contrary to sections 354(1)(a), 380(1)(a), and 462.31(1) of the *Criminal Code*. The charges were as follows:

*Count 1 – Possession of Property Obtained by Crime*

*Between the 1st day of August in the year 2018 and the 31st day of July in the year 2019, did commit the offence of possessing property, namely money exceeding \$5,000, knowing that all or part of the proceeds had been obtained through the commission of an indictable offence, contrary to section 354(1)(a) of the Criminal Code and thereby committing an offence under section 355(a).*

*Count 2 – Fraud Over \$5,000*

*Between the 1st day of August in the year 2018 and the 31st day of July in the year 2019, did by deceit, falsehood, or other fraudulent means defraud C.U. of money exceeding \$5,000, contrary to section 380(1)(a) of the Criminal Code.*

*Count 3 – Laundering Proceeds of Crime*

*On or about the 17th day of October in the year 2018, did transfer proceeds of property, namely money, with intent to conceal or convert that property, knowing or believing that all or part of the proceeds had been obtained or derived from the commission of a designated offence, namely fraud over \$5,000, contrary to section 462.31(1) of the Criminal Code.*

75. The Complainant Landlord's allegations and the inculpatory material for these charges mirrored those set out in Det. White's investigation and remained pending adjudication. The duplicative allegations were presented without any material distinction, and no new evidence had been uncovered to lawfully justify their escalation to *Criminal Code* offences. The particulars of the allegations, as reiterated by S/Sgt. Desjourdy, included but were not limited to the following:

- (a) that in March 2019, during a proceeding before the LTB, Mr. Justice knowingly submitted fraudulent Interac e-transfer rent receipts, falsely representing that he had made monthly rent payments of \$1,800 from August 2018 to January 2019;
- (b) that Mr. Justice intentionally misled the LTB adjudicator by fraudulently creating the false impression that he had made the requisite rent payments when, in fact, no such payments had been made; and
- (c) that in April 2019, based on allegedly fraudulent misrepresentations, the LTB issued an order in favour of the Justices and against the Complainant Landlord concerning purported rent arrears.

76. Despite the absence of any new lawfully substantiated inculpatory evidence, S/Sgt. Desjourdy departed from Det. White's initial findings and advanced the following additional allegations:

- (a) that Mrs. Justice knowingly and actively participated in the alleged offence alongside Mr. Justice during the March 2019 LTB hearing;

- (b) that the same allegations previously assessed under the *RTA* were now purported to meet the threshold for a *Criminal Code* offence;
- (c) that by allegedly obtaining the April 2019 LTB order and evading rent payments through fraudulent misrepresentations, the Justices had committed fraud exceeding \$5,000 and possession of property obtained by crime; and
- (d) that through the purchase of their new home, 2589, on October 18, 2018, the Justices had allegedly attempted to transfer and conceal rent arrears purportedly obtained through fraudulent means, thereby committing the offence of laundering proceeds of crime.

77. The decision to lay charges under sections 462.31(1) and 354(1)(a) of the *Criminal Code*—namely, Laundering Proceeds of Crime and Possession of Property Obtained by Crime—was not only unsupported by any new or credible evidence but was rendered objectively impossible by the irrefutable chronology of events, which categorically precluded any lawful basis for the charges. Moreover, these charges were not the product of an evolving investigation but were strategically framed to misrepresent pre-existing allegations as materially more severe, artificially fabricating an appearance of aggravation absent any legitimate evidentiary foundation. This deliberate and improper escalation contravened fundamental principles of due process and prosecutorial integrity, distorting the factual record to sustain an otherwise unsupportable prosecution.

78. The charge of Laundering Proceeds of Crime failed to satisfy the essential elements of the offence, as it lacked a legal foundation, a factual basis, and any nexus to a designated

offence. The charge was legally unsustainable for reasons including, but not limited to, the following:

(a) Proceeds of Crime Must Be Derived from an Offence

the purchase of the Justices' home, 2589, predated the alleged fraud by five months, making it legally and factually impossible for the funds to have originated from the alleged offence;

(b) Rent Arrears Are a Civil Matter, Not Proceeds of Crime

even if the allegations had been true, the disputed rent payments arose from a contractual dispute under the *RTA*, not a criminal enterprise generating illicit funds;

(c) The Justices Used a Lawful Mortgage to Purchase 2589

the funds used for the down payment were advanced as part of a lawfully authorized mortgage transaction, not from any alleged fraud; and

(d) The Accusation Required a Complete Disregard for the Chronology of Events

the alleged fraudulent conduct had not yet occurred at the time of the home purchase, making it legally and factually impossible for the funds used in the transaction to have been "laundered" from a future event.

79. By electing to proceed with charges of Possession of Property Obtained by Crime, Fraud Exceeding \$5,000, and Laundering Proceeds of Crime, S/Sgt. Desjourdy willfully disregarded critical exculpatory evidence, including but not limited to the following:

- (a) that, under his direct supervision, Det. White had already determined that the Complainant Landlord's identical allegations failed to meet the legal threshold for *Criminal Code* charges;
- (b) that Mr. Justice was already subject to prosecution in Provincial Offences Court for identical allegations based on the same body of evidence, thereby precluding the initiation of a parallel proceeding under the *Criminal Code*;
- (c) that Mrs. Justice had not been implicated in the initial prosecution, and no new evidence had emerged to support her alleged involvement that was not already available during Det. White's investigation; and
- (d) that the Justices had purchased 2589 five months before the alleged fraud, rendering the assertion that they used unlawfully obtained funds for the purchase factually and legally impossible.

80. Notwithstanding this exculpatory evidence, available records indicate that, in or about November 2019, S/Sgt. Desjourdy directed his subordinate, Cst. McElravy, to seek judicial authorization for the search and seizure of the Justices' financial records from Scotiabank—despite the absence of any new investigative justification. The records sought were wholly redundant and materially duplicative, as identical financial data had already been

obtained from Interac Corp. and had formed the evidentiary basis for Det. White's original allegations.

81. No additional inculpatory evidence existed to justify this request, nor was any aggravating factor identified to warrant further investigative measures. Despite this, S/Sgt. Desjourdy proceeded with the application, failing to disclose that the requested records had already been available during Det. White's investigation and that no new evidence had emerged to justify their re-examination.

82. In or about September 2020, nearly a year after the first judicial authorization, available records indicate that S/Sgt. Desjourdy directed Cst. McElravy to seek a separate judicial authorization targeting a \$200,345.81 bank draft tendered by the Justices to the Bank of Montreal as a down payment on their home on October 18, 2018. This authorization was obtained under a knowingly false pretense, invoking proceeds of crime allegations despite the objective impossibility of any nexus to the transaction, which had been legally and financially accounted for months before the alleged fraud had even occurred. The authorization was therefore inherently misleading, as it lacked any plausible relevance to the investigation or the alleged offence.

83. By falsely invoking fraud allegations that postdated the transaction by five months, S/Sgt. Desjourdy fabricated a non-existent temporal connection to misrepresent the relevance of the financial records and secure judicial authorization. The application failed to disclose that the funds had already been legally and financially accounted for at the time of the transaction, making it factually and legally impossible for them to constitute proceeds of crime. This omission resulted in a misleading and incomplete evidentiary foundation.

84. By obtaining access to the Justices' private financial records under false pretenses, the authorization unlawfully expanded the investigation beyond any legitimate criminal inquiry. The misrepresentation transformed an otherwise unwarranted request into an impermissible intrusion into the Justices' private financial affairs, further compounding the procedural irregularities that undermined the integrity of the investigation.

85. This judicial authorization—obtained nearly a year after the initial authorization, without any new investigative grounds or additional inculpatory evidence—constituted an unlawful privacy violation contrary to section 8 of the *Charter*. It was improperly secured through deliberate misrepresentation of its necessity, relying on allegations that S/Sgt. Desjourdy knew or ought to have known were factually and legally unsupportable based on their own chronology. By fabricating investigative necessity, the police misrepresented an otherwise impermissible request as a legitimate inquiry, unlawfully expanding the scope of their financial investigation. This procedural irregularity further deprived the Justices of fairness and procedural integrity.

86. In his police report, S/Sgt. Desjourdy listed the Justices as still working as the National Directors for A.E., despite the fact that they had ceased employment with A.E. in 2013. This detail was particularly significant, as this position was never listed publicly or online and had been held at a time before the internet evolved to its current state.

87. The Justices plead that this information could only have originated from their private meeting with Officers G.L. and M.F. in July 2012 at A.E.'s then National Distribution office, located at 35 Auriga Dr. in Ottawa. They further plead that they had no other interactions with officers from the Ottawa Police Service during their tenure as National Directors for A.E. in which this information was disclosed to police.

88. Given the totality of circumstances—particularly the absence of reasonable and probable grounds, the procedural irregularities, and S/Sgt. Desjourdy’s prolonged investigation into their financial activities, during which he ought to have known their recent employment status—the Justices understood the inclusion of this outdated information as a calculated message directed at them, signaling that the charges were pursued as an act of retaliation.

89. The Justices plead that the charges advanced by S/Sgt. Desjourdy were not supported by legally sufficient evidence, lacked reasonable and probable grounds, and gave rise to legal proceedings that contravened the principles of procedural fairness and fundamental justice. They further plead that these proceedings were initiated and sustained, in whole or in part, for an improper purpose, including retaliation, the suppression of public accountability, and institutional self-interest. They also plead that his actions inflicted severe emotional, psychological, and financial harm, depriving them of the stability, security, and professional standing they had diligently worked to establish.

90. The baseless and unjustified criminal charges had profound and far-reaching consequences for the Justices. The allegations compelled them to shift their entire focus toward mounting a defence, severely disrupting both their professional and personal lives.

91. As key figures in a licensed energy provider, the Justices were required to withdraw from active leadership duties due to industry regulations prohibiting individuals facing ongoing criminal proceedings from fully performing such roles.

92. What initially appeared to be a manageable legal matter escalated into a protracted 40-month ordeal, subjecting the Justices to relentless stress, reputational harm, and significant



financial strain. They were forced to engage in exhaustive legal research, court proceedings, and procedural advocacy, all to defend themselves against charges wholly devoid of evidentiary merit.

### **The Arbitrary Detention in a Parking Lot**

93. Lacking reasonable and probable grounds to apply for or obtain arrest warrants for the Justices, S/Sgt. Desjourdy circumvented judicial oversight and the formal arrest process. Rather than adhering to lawful procedures, he directed officers—including Cst. Tessier—to repeatedly attempt to compel the Justices into signing police undertakings through coercive measures, thereby depriving them of the procedural safeguards afforded under a formal arrest. This extrajudicial approach enabled legal proceedings to be initiated against them while evading the judicial scrutiny required for a lawfully authorized arrest.

94. Between January 14 and 25, 2021, at the direction of S/Sgt. Desjourdy, officers—including Cst. Tessier—attended the Justices’ home at 2589 on four separate occasions in an effort to compel them to sign police undertakings. The repeated and conspicuous police presence in the neighborhood created undue pressure on the Justices to comply, despite the absence of judicial authorization for an arrest. Fully aware of their legal rights, the Justices consistently refused. Despite their refusals, at no point did officers seek, apply for, or obtain judicial authorization, nor did they attempt to effect a lawful arrest.

95. During these encounters, the Justices explicitly informed Cst. Tessier and the other attending officers that they were under no legal obligation to sign the undertakings at their

residence. They further directed the officers to inform S/Sgt. Desjourdy that, should a valid arrest warrant be issued, they would voluntarily surrender with legal counsel. Despite these unequivocal assertions, S/Sgt. Desjourdy continued to refrain from seeking judicial authorization, instead directing Cst. Tessier to persist in securing compliance through extrajudicial means. This deliberate circumvention of the legal framework governing arrests and undertakings deprived the Justices of procedural safeguards against arbitrary detention and abuse of process.

96. On January 25, 2021, Cst. Tessier approached Mr. Justice while he was seated in a parked vehicle at a shopping plaza located at 6045 Bank Street in Ottawa. Mr. Justice was not operating the vehicle, and at no point did Cst. Tessier request a driver's licence, vehicle registration, or any other documentation—confirming that the interaction was neither a lawful traffic stop nor initiated under any recognized motor vehicle enforcement authority.

97. Speaking through the open driver's side window, Cst. Tessier again attempted to compel Mr. Justice to sign a police undertaking. Mr. Justice unequivocally refused, stating that he would not sign under coercive conditions in a public parking lot and without legal counsel, as doing so would be procedurally improper and inconsistent with his constitutional rights under the *Charter*.

98. Any reasonable officer in Cst. Tessier's position would have recognized the extraordinary irregularity of repeatedly attempting to impose police undertakings in the absence of an arrest warrant. This marked departure from standard law enforcement procedure gives rise to a compelling inference that both S/Sgt. Desjourdy and Cst. Tessier knew or ought to have known that the case lacked the requisite legal grounds to justify either an arrest or the underlying charges.

99. Following Mr. Justice’s refusal, Cst. Tessier escalated the encounter by deliberately positioning his police cruiser to obstruct Mr. Justice’s vehicle. He then initiated a coordinated show of force by requesting backup, leading to the arrival of four additional police vehicles, which encircled Mr. Justice’s vehicle and prevented him from leaving.

100. One of the responding officers, Cst. Nizman, approached and positioned himself near the passenger’s side, resting his hand near his service firearm—a deliberate display of force that, in the totality of circumstances, exerted psychological pressure on Mr. Justice and further restricted his ability to leave without signing the undertaking.

101. Cst. Tessier contacted S/Sgt. Desjourdy, advising that Mr. Justice remained surrounded by officers but continued to refuse to sign the undertaking. Mr. Justice directly observed this exchange, and Cst. Tessier’s police report later documented the communication. Rather than ordering his release or seeking judicial authorization, S/Sgt. Desjourdy allowed the detention to persist—thereby exerting psychological coercion intended to compel compliance under duress.

102. Throughout the encounter, Mr. Justice remained seated inside his vehicle, recording the interaction in real time on his mobile device. At no point was he informed that he was under arrest, nor was he issued a lawful command requiring compliance. Instead, officers explicitly stated that he would not be permitted to leave unless he signed the police undertaking—an ultimatum that rendered his detention arbitrary, coercive, and unlawful under the *Charter*.

103. Mr. Justice repeatedly asked Cst. Tessier whether he was being detained or arrested and, if so, on what grounds. Rather than providing any legal justification, Cst. Tessier responded, “I don’t know what the grounds are,” “I don’t want to put you in handcuffs,” and “I don’t want to

go to court for this case.” These statements confirm that Cst. Tessier had no personal knowledge of any lawful basis for detaining Mr. Justice, nor did he take any steps to ascertain whether reasonable and probable grounds existed before escalating the police action.

104. As bystanders—including Mr. Justice’s friends and neighbours—gathered at the scene, several voiced concerns regarding the officers’ conduct. The public nature of the detention further underscored its arbitrary and oppressive character, compounding the violation of Mr. Justice’s constitutional rights under the *Charter*.

105. After being confined in his vehicle for over an hour, Mr. Justice informed the officers that he was a type 1 diabetic. He expressly stated that he was not in medical distress but noted that if the detention continued indefinitely, he might require a glucose tablet from the pharmacy located within immediate proximity. He further clarified that he did not require immediate medical intervention and offered to provide money for officers to purchase the tablet on his behalf if necessary.

106. Mr. Justice clearly advised officers that no medical emergency existed and explicitly cautioned against misrepresenting his condition as a pretext for intervention. Despite this, officers proceeded to create the appearance of a crisis, requesting multiple ambulances even after his unequivocal confirmation that he did not require medical assistance. This escalation—absent any legitimate medical justification—was disproportionate to the circumstances and functioned as a tactical maneuver to prolong his detention and facilitate police intervention in the absence of lawful grounds for arrest.

107. As ambulances arrived, Cst. Tessier and other officers presented Mr. Justice with a coercive ultimatum: sign the police undertaking and be free to leave immediately, or officers would proceed with their assertion that he was experiencing a medical emergency requiring intervention. Mr. Justice unequivocally refused to sign under duress and repeatedly affirmed that he was not in medical distress. He further reminded officers that video evidence clearly documented his condition, eliminating any legitimate basis for their claimed medical concerns.

108. After nearly two hours, officers forcibly removed Mr. Justice from his vehicle without prior warning and without issuing any lawful command to exit. He was given no opportunity to surrender voluntarily. Instead, officers physically extracted him and forcefully threw him face-first onto the pavement, inflicting bruising and physical trauma.

109. Officers placed Mr. Justice in handcuffs and transported him to a waiting ambulance. Once inside, he was informed—for the first time—that he was under arrest but would be immediately released upon agreeing to the conditions of the police undertaking. The sequence of events and surrounding circumstances establish that the purported medical emergency functioned as a pretext to circumvent the legal requirements for a warrantless arrest.

110. Paramedics examined Mr. Justice and promptly confirmed that he was medically stable and did not require treatment—further undermining the officers’ asserted justification for forcibly removing him from the vehicle.

111. After Mr. Justice was medically cleared, Cst. Tessier advised him that he had been directed to serve a similar police undertaking on Mrs. Justice but indicated his intent to delay

doing so. Concerned about the potential for further coercive measures, Mr. Justice reluctantly agreed to facilitate contact between officers and Mrs. Justice.

112. On January 30, 2021, Cst. Tessier attended the Justices' residence to serve the police undertaking on Mrs. Justice. On this occasion, his demeanor had notably shifted, and he expressed regret for his involvement. He again attempted to distance himself from the case and indicated that, had the decision been his, he would not have pursued charges against Mrs. Justice. Before leaving, he wished the Justices "the best of luck" in challenging the charges—further implying his awareness of the legal deficiencies underlying the prosecution.

113. Subsequent police reports authored by Cst. Tessier and Cst. Nizman contained material inconsistencies regarding the justification for Mr. Justice's warrantless arrest. Cst. Nizman's report asserted—without evidentiary basis—that Mr. Justice posed an immediate danger in the parking lot, alleging that officers arrested him to prevent a purported risk of him "leading police on a chase," "ramming them," and striking civilians with his vehicle. In contrast, Cst. Tessier's report stated that the arrest was unrelated to any immediate safety concern and was instead solely connected to the charges previously laid by S/Sgt. Desjourdy.

114. These contradictory and irreconcilable accounts indicate a post hoc attempt to justify the warrantless arrest, further demonstrating that, at the time of Mr. Justice's detention, officers lacked the lawful grounds required to effect an arrest under section 495 of the *Criminal Code*.

115. At all times, officers lacked any lawful basis to conclude that Mr. Justice posed a threat. His demeanor throughout the encounter remained calm and non-confrontational, as later corroborated by video evidence that emerged following the incident. This evidence—which

subsequently received widespread public attention—directly refuted any asserted justification for his detention.

116. The officers' actions contravened the requirements of section 495 of the *Criminal Code*, which governs warrantless arrests. At no point did they possess reasonable and probable grounds to lawfully justify proceeding without a warrant. Their conduct further violated section 9 of the *Charter*, which guarantees the right to be free from arbitrary detention. Despite Mr. Justice's repeated assertions that he was under no legal obligation to sign an undertaking, officers—fully aware of this—improperly invoked section 495 as a pretext to prolong his detention and effect a forcible arrest. This misuse of legal authority ultimately coerced his compliance with conditions imposed outside of judicial oversight.

117. Following these events, the Justices documented a sustained pattern of surveillance and intimidation over the next two years. They recorded multiple instances of conspicuous police presence near their residence and at locations they regularly frequented. The frequency, persistence, and targeted nature of these encounters reinforced concerns that they remained subject to unwarranted law enforcement scrutiny in the absence of any lawful justification.

118. At the time of Mr. Justice's detention, video recordings of the incident were securely stored in a location where loss or deletion was not possible under normal circumstances. However, following the detention and during ongoing police surveillance of the Justices' residence, these original files were discovered to be missing from their secured location. Months later, a limited number of backup versions—unbeknownst to Mr. Justice at the time—were recovered from an alternative storage location. Though incomplete, these recovered files directly

contradicted material aspects of the police accounts concerning the detention and warrantless arrest.

119. The missing recordings were particularly significant, as Cst. Nizman's allegations were relied upon to justify a warrantless arrest under section 495 of the *Criminal Code*, despite the absence of statutory preconditions. The later-recovered video footage directly contradicted those allegations, establishing that Mr. Justice had not engaged in any conduct that could reasonably justify police intervention.

120. The coercive extrajudicial measures employed to initiate legal proceedings in the absence of reasonable and probable grounds—combined with arbitrary detention, the use of force, and the misuse of medical intervention—caused Mr. Justice to suffer severe emotional and psychological distress. This culminated in a clinical diagnosis of post-traumatic stress disorder, panic disorder, and depression in or about July 2021, for which he required prescribed medication.

121. The Justices plead that the arbitrary detention and warrantless arrest were part of a broader pattern of intimidation, coercion, and abuse of authority, resulting in severe and lasting emotional and psychological harm.

### **The Crown Pursues Conviction at the Expense of Justice**

122. Upon assuming conduct of the prosecution, A.C.A. Farrell was urged by the Justices to undertake a thorough and impartial review of several material issues directly impacting the evidentiary sufficiency and procedural fairness of the proceedings. As a quasi-minister of justice,



she bore a duty to objectively assess whether the charges were legally and factually sustainable and to ensure that the prosecution aligned with the interests of justice. These issues included, but were not limited to:

(a) Absence of Reasonable and Probable Grounds

that the allegations advanced by S/Sgt. Desjourdy were facially unsubstantiated, devoid of any factual or legal foundation, and initiated in the absence of reasonable and probable grounds, contrary to established investigative and prosecutorial standards;

(b) Impossibility of the Financial Allegations

that the Justices had purchased 2589 five months before the alleged falsification of rent receipts, rendering any assertion that the purchase involved proceeds of crime both legally and factually impossible;

(c) Parallel Prosecution for the Same Matter

that Mr. Justice was simultaneously facing prosecution in Provincial Offences Court based on substantially identical allegations and evidence, raising fundamental concerns regarding procedural fairness, due process, and the prohibition against duplicative prosecution under established legal principles; and

(d) Exculpatory Evidence Within the Crown's Possession

that the Crown was in possession of exculpatory evidence—including the final LTB order in favour of the Complainant Landlord, the official purchase date of 2589, and the 245-page disclosure package related to the Provincial Offences Court prosecution—all of which were demonstrably inconsistent with the decision to proceed with criminal prosecution.

123. Despite these clear deficiencies, A.C.A. Farrell failed to take any corrective action. In an effort to ensure compliance with charge screening obligations, the Justices formally requested an Adult Charge Screening Form to confirm that she had conducted a proper evidentiary review in accordance with her legal duty.

124. Upon reviewing A.C.A. Farrell's completed Adult Charge Screening Form, the Justices determined that she had made no meaningful effort to assess the case on its legal or factual merits. Her review demonstrated a fundamental failure to identify critical factual and legal inconsistencies in S/Sgt. Desjourdy's allegations, including but not limited to:

(a) Misrepresentation of Occupancy Status

falsely asserting that the Justices unlawfully occupied the Complainant Landlord's property, despite clear and undisputed evidence that they had vacated the premises two years prior;

(b) Improper Conditioning of Charge Reduction

conditioning a charge reduction on the Justices relinquishing the Complainant Landlord's property, despite the legal impossibility of such a condition, as they had neither legal nor physical possession of the property at the time of the charges; and

(c) Disregard of Exculpatory LTB Rulings

ignoring exculpatory rulings from the LTB that were contained in the Crown's own disclosure, which established that:

- (i) the termination of the Justices' tenancy fell within the exclusive jurisdiction of the LTB and had already been fully adjudicated two years earlier;
- (ii) the alleged rent arrears had already been litigated, and the previous order in the Justices' favour had been set aside two years prior, eliminating any basis for criminal allegations; and
- (iii) the Complainant Landlord had already been awarded arrears and costs, rendering any alleged falsification of rent receipts legally irrelevant, as no fraudulent deprivation of property could be sustained.

125. During judicial pre-trial hearings before the Honourable Justice Matthew C. Webber (**"Justice Webber"**) on May 20, 2021, and June 29, 2021, A.C.A. Farrell failed to discharge her

prosecutorial duty to independently and impartially assess the case. Despite her obligation to ensure the accuracy of the evidentiary record, disclose all relevant exculpatory material, and prevent misleading representations, she permitted material misstatements of fact to persist and failed to correct or disclose exculpatory evidence in her possession or that ought to have been disclosed. These omissions compromised the integrity of the proceedings, deprived the court of material facts necessary for a fair adjudication, and prejudiced the Justices' fundamental right to procedural fairness.

126. As a result, Justice Webber proceeded under multiple material misapprehensions, including: the incorrect belief that S/Sgt. Desjourdy had independently introduced allegations that had, in fact, already been advanced by Det. White; the failure to recognize that the same matter was concurrently subject to parallel prosecution; and the mistaken assumption that the Justices had purchased 2589 only after securing the April 2019 LTB order—when, in reality, they had acquired the property six months earlier, in October 2018.

127. During these hearings, Justice Webber expressed skepticism regarding both the plausibility and proportionality of the charges. Although proceeding under certain factual misapprehensions, His Honour nonetheless questioned whether the allegations had been exaggerated or lacked legal sustainability. These concerns arose even while operating under the incorrect assumption that the Justices could have put withheld rent toward the purchase of 2589—an assumption that was factually impossible, as the established chronology of events irrefutably demonstrated.

128. When confronted with Justice Webber's concerns, A.C.A. Farrell unequivocally conceded that the charge of Laundering Proceeds of Crime lacked both a factual and legal foundation. During the proceedings, Justice Webber remarked:

It struck me that the laundering count really was a bit of a stretch. I mean, you know, it's their money that, yes, rightfully should have been given to somebody else, is the accusation, but whether or not withholding it and using it for legitimate purposes amounts to laundering in law is, intuitively I think that is a bit of a stretch, right?

129. Without hesitation, A.C.A. Farrell replied, "Yes, Your Honour." Her immediate admission confirmed that the charge was legally unsustainable and had been overstated by police, yet she had taken no steps to reassess or withdraw it until directly pressed by the Court. This concession came only after repeated requests by the Justices for her to review the evidentiary deficiencies—requests she had previously dismissed.

130. During these hearings, the Justices formally alleged that the charges had been pursued with malice and without reasonable and probable grounds. While Justice Webber was not presented with the complete evidentiary record, His Honour nonetheless acknowledged that these concerns may have had merit, expressly noting apparent deficiencies in the evidence before the Court.

131. When urged by Justice Webber to consider a resolution, A.C.A. Farrell proposed a guilty plea in exchange for a reduced sentence, contingent upon the Justices paying rent arrears, legal fees, and additional accommodation costs to the Complainant Landlord. Justice Webber rejected this outright, emphasizing that the matter had already been adjudicated by the LTB and affirming that criminal charges could not be used as a means to enforce a civil debt.

132. Despite previously indicating before Justice Webber that the charge of Laundering Proceeds of Crime would be withdrawn, A.C.A. Farrell took no steps to effect its withdrawal following the second judicial pre-trial and the subsequent reassignment of the case to a different judge. Instead, she proceeded to trial on all three charges, including the Laundering Proceeds of Crime allegation—an offence that was legally unsustainable and, by her own prior acknowledgment, had been overstated by police.

133. A third judicial pre-trial was scheduled for August 19, 2021. On the preceding day, the Justices sent a formal email to A.C.A. Farrell, outlining critical concerns they intended to raise on the record. In their correspondence, they explicitly detailed the severe harm they had sustained as a direct consequence of the prosecution and asserted that, by continuing to pursue charges that she knew or ought to have known lacked merit, A.C.A. Farrell had aligned herself with a prosecution conducted in bad faith and had actively contributed to its continuation.

134. On the morning of the scheduled hearing, after receiving no response from A.C.A. Farrell, the Justices sent a follow-up email. Unlike the previous day, they received an automatic out-of-office reply. However, the reply was dated five months earlier—an irregularity that raises serious questions as to whether it had been retroactively activated in response to the Justices' inquiries.

135. At the scheduled start time, the Justices attempted to attend the virtual hearing using the coordinates provided to them, as the courthouse remained on lockdown due to the COVID-19 pandemic, precluding in-person attendance. Despite logging in, they discovered that the session had not commenced, and repeated efforts to contact A.C.A. Farrell and the OCAO went unanswered. Recognizing the irregularity of the situation, the Justices documented their attempts

to access the hearing on video. By the end of the scheduled hour, the hearing had not taken place, and no explanation had been provided. The prolonged silence gave rise to serious concerns that they were being deliberately placed in a position where they might appear to have failed to attend.

136. On August 20, 2021, the day after the scheduled hearing, A.C.A. Farrell responded via email, stating that she was no longer a Crown prosecutor and had no affiliation with the OCAO. However, court records later confirmed that this statement was inaccurate. In reality, she had been reassigned to the Guns and Gangs Prosecution Service—a reassignment that, on its face, obscured her continued involvement in the case and created the appearance of distancing herself from allegations that she had prosecuted without reasonable and probable grounds.

137. Following A.C.A. Farrell’s email, the Justices independently confirmed through the court that bench warrants had been issued for their arrest. The fact that these warrants were issued on the very day the scheduled hearing failed to proceed raised serious concerns that they were issued without proper procedural justification and for improper purposes.

138. By disregarding exculpatory evidence, failing to withdraw a charge that she had previously acknowledged was overstated by police, and neglecting to inform the Justices that she would neither be attending the third judicial pre-trial nor remain assigned to their case, A.C.A. Farrell engaged in conduct that was fundamentally inconsistent with the principles of justice, further undermining the integrity of the prosecution.

139. The Justices plead that A.C.A. Farrell’s conduct was not motivated by an impartial assessment of the evidence but rather by improper purposes, including prioritizing career

advancement over her duty as a quasi-minister of justice. As a result, the prosecution was fundamentally unjust and without merit.

## **The Second Series of Unfounded Criminal Charges**

140. Following A.C.A. Farrell's abrupt and highly irregular removal from the case, the Justices were met with two weeks of complete and unexplained silence from the OCAO. Despite multiple documented attempts to obtain procedural clarity, the OCAO failed to provide any response or guidance. As the Crown's inaction persisted without explanation, the Justices formally escalated their concerns. On August 31, 2021, they submitted a written complaint via email to senior officials, requesting immediate intervention. This correspondence was directed to, among others, the Attorney General, the Director of Crown Operations (East Region) Julie Scott, the Ottawa Regional Crown Attorney Brian Holowka, and D.C.A. Holmes.

141. This email detailed significant procedural irregularities and included supporting documentation establishing that:

- (a) the Justices had fully complied with all procedural requirements by remaining on hold for approximately one hour on August 19, 2021, in anticipation of their scheduled hearing;
- (b) the Justices had correctly entered the designated meeting ID and password as provided at the conclusion of the prior hearing;



- (c) upon discovering that the hearing had not commenced, the Justices made multiple documented attempts—both during and after the scheduled time—to contact A.C.A. Farrell and the OCAO for clarification, all of which went unanswered;
- (d) the OCAO failed to provide any response, depriving the Justices of procedural guidance or any means of recourse; and
- (e) the bench warrants issued in the Justices’ absence lacked any factual or legal foundation, were procedurally improper, and required immediate rescission.

142. The Justices’ email provided formal notice of their intent to pursue legal action against the Crown for *malicious prosecution* upon the conclusion of the criminal proceedings. In this correspondence, they identified A.C.A. Farrell’s specific role in the continuation of their prosecution and raised concerns that the OCAO’s actions may have constituted an unjustified and retaliatory effort to secure their imprisonment following their prior allegations against her. The Justices further noted that A.C.A. Farrell’s removal from the case was highly irregular, occurring just one day after they had formally implicated her in wrongdoing.

143. The following day, D.C.A. Holmes responded, becoming the fourth Crown prosecutor to assume carriage of the case. In his response, he acknowledged concerns regarding the propriety of the bench warrants and their potential to cause psychological harm. He subsequently took steps to have the warrants rescinded. However, this corrective action was undertaken only after the Justices had already endured prolonged distress and uncertainty.

144. To gain a precise understanding of the circumstances surrounding the issuance of the bench warrants, the Justices obtained and reviewed the official court transcript from the hearing.

Their review uncovered significant procedural irregularities. Most notably, the OCAO abruptly replaced A.C.A. Farrell with a temporary prosecutor, A.C.A. Seifried, who was assigned exclusively to the Justices' hearing—without prior notice or explanation—before being immediately reassigned thereafter. The unexplained nature of this substitution raised serious concerns regarding both the circumstances of A.C.A. Farrell's removal and the prosecutorial decisions that followed.

145. The transcript further revealed that while the Justices remained on hold using the original meeting credentials assigned specifically to them and A.C.A. Farrell, A.C.A. Seifried accessed the courtroom using an undisclosed, newly issued meeting ID and password. Despite having no prior involvement in the case, A.C.A. Seifried represented to the Court that the Justices had a history of failing to appear—an assertion that served as the Crown's stated justification for the issuance of their bench warrants.

146. In light of these cumulative irregularities—when assessed within the broader pattern of misconduct—the Justices reasonably concluded at the time, and now plead, that the OCAO deliberately orchestrated their exclusion from the hearing and procured the issuance of bench warrants as an act of retaliation for their legal complaint. The facts supporting this conclusion include, but are not limited to, the following:

(a) Failure to Notify of Prosecutorial Change

that the Justices were never advised of A.C.A. Farrell's removal from the case or notified that a different Crown prosecutor would be handling the hearing;

(b) Suspicious Email Auto-Response

that the Justices' email to A.C.A. Farrell did not receive an automatic reply on the day preceding the hearing. However, on the day following their legal complaint, an outdated auto-response was suddenly enabled on her account, creating the appearance that she had been unavailable on the day of the hearing;

(c) Misrepresentation of Employment Status

that A.C.A. Farrell represented that she was no longer employed as a Crown Attorney with the OCAO when, in reality, she had been reassigned to the Guns and Gangs Prosecution Service;

(d) Foreknowledge and Failure to Provide Notice

that A.C.A. Farrell, in her August 20, 2021, email, stated that she had been absent for the entire week of the hearing, thereby confirming that the OCAO had advance knowledge of her unavailability and ample opportunity to notify the Justices of the prosecutorial change—yet it failed to provide any such notice;

(e) The Hearing Was Specifically Scheduled for A.C.A. Farrell and the Justices

that the hearing had been scheduled as a dedicated, one-hour judicial pre-trial to address significant issues. Given her designated role in the matter, it was entirely reasonable for the Justices to expect timely notification of her removal—yet no such notice was ever provided;

(f) Failure to Forward the Justices' Concerns to the OCAO

that given A.C.A. Farrell's direct involvement, it was reasonable to expect that she would have escalated the Justices' concerns to the appropriate OCAO officials—yet there is no indication that she did so;

(g) Immediate Pursuit of Bench Warrants Without Inquiry

that A.C.A. Seifried made no attempt to contact the Justices before seeking the warrants. No effort was made to determine whether they were experiencing technical difficulties preventing them from accessing the virtual hearing—an issue that was well-documented at the time;

(h) The OCAO's Complete Silence Until Legal Action Was Threatened

that the Justices' repeated emails and phone calls were ignored until they explicitly threatened legal action, further confirming the OCAO's persistent inaction; and

(i) The Bench Warrants Were Rescinded Without Objection

that once challenged, the OCAO promptly withdrew the warrants, thereby conceding that they lacked any legal foundation.

147. Given these facts—when assessed alongside the cumulative irregularities and broader pattern of misconduct—the Justices plead that A.C.A. Farrell's removal and the subsequent prosecutorial decisions were not mere coincidences. Rather, they plead that these decisions were

improperly influenced by considerations intended to shield her involvement from scrutiny, particularly after they declared their intent to pursue damages for malicious prosecution—claims for which the Crown enjoys no immunity.

148. Upon assuming conduct of the prosecution, D.C.A. Holmes was directly informed by the Justices of material concerns regarding evidentiary sufficiency and procedural fairness—concerns they had previously raised with A.C.A. Farrell. The Justices further advised D.C.A. Holmes of additional exculpatory evidence indicating that S/Sgt. Desjourdy and Det. White had initiated and advanced legal proceedings despite procedural irregularities in the investigative and charging process, further reinforcing their serious concerns regarding improper motive.

149. Following an independent review, D.C.A. Holmes determined that the charges against the Justices lacked the reasonable and probable grounds necessary to support prosecution—thus confirming what the Justices had consistently maintained. In a September 23, 2021, email, he advised the Justices that the Crown would “abandon” the allegations concerning fraud against the Complainant Landlord and the purported conversion of rent funds toward the purchase of 2589. He further confirmed that at the upcoming hearing on September 24, 2021, the Crown would enter stays of proceedings on the charges of Fraud Over \$5,000, Possession of Property Obtained by Crime, and Laundering Proceeds of Crime.

150. However, rather than withdrawing the case outright—which would have crystallized the Justices’ anticipated claim for malicious prosecution—D.C.A. Holmes proceeded in a manner that effectively insulated the OCAO and A.C.A. Farrell from further scrutiny while obstructing the Justices’ ability to establish a cause of action. In the same email, he informed the Justices

that, following consultation with S/Sgt. Desjourdy, the Crown would introduce a new Information (“**Second Criminal Information**”), charging the Justices with two additional *Criminal Code* offences despite the absence of new evidence or material developments. The allegations underpinning these new charges were factually indistinguishable from the matter concurrently pending adjudication in Provincial Offences Court under the *RTA*. Moreover, the full disclosure package from the First Criminal Information—already associated with the *RTA* matter—was simply reassigned to the new case without any new evidentiary foundation or legal justification.

151. On September 24, 2021, during a pre-trial hearing before the Honourable Justice Robert Wadden, D.C.A. Holmes directed a stay of proceedings on the charges laid under the First Criminal Information. At the same time, the Crown elected to proceed on the Second Criminal Information, alleging that the Justices had jointly committed the following offences:

*Count 4 — Obstructing Justice*

*Between the 14th day of February in the year 2019 and the 21st day of March in the year 2019 at the City of Ottawa in the East/De L'est Region did intentionally attempt to obstruct, pervert, or defeat the course of justice by influencing the outcome of a [LTB] Tribunal hearing by submitting knowingly false documentation pertaining to their payment of rent, contrary to Section 139, subsection (2) of the Criminal Code of Canada;*

*Count 5 — Use of Forged Document*

*Between the 14th day of February in the year 2019 and the 21st day of March in the year 2019 at the City of Ottawa in the East/De L'Est Region did, knowing a document, namely Scotiabank bank statements and Interac Corporation statements, to be forged, use, deal with or act on it as if it were genuine, contrary to Section 368, subsection (1)(a) of the Criminal Code of Canada.*

152. Until the introduction of the Second Criminal Information, the Justices had been actively preparing their defence to the charges set out in the First Criminal Information. However, less than 24 hours after notifying the Justices of the new charges, D.C.A. Holmes moved to compel their election for trial, thereby depriving them of a meaningful opportunity to review and respond to the Crown's revised position. At the pre-trial hearing on September 24, 2021, following a contentious exchange between the Justices and D.C.A. Holmes, the Court granted the Justices' request for a four-week adjournment.

153. Throughout November 2021, the Justices repeatedly pressed D.C.A. Holmes via email to clarify the legal basis upon which the Crown simultaneously pursued two materially identical prosecutions arising from the same underlying conduct. In response, he stated that he had elected to proceed by criminal indictment "to promote some focus to the criminal litigation [he expected] would follow." Although he initially declined to address the procedural duplication, when directly questioned, he ultimately acknowledged that the two prosecutions substantially overlapped. Despite this acknowledgment, he took no corrective measures, thereby permitting both prosecutions to remain concurrently active for 617 days, imposing unnecessary procedural burdens and causing unjustified delay to the litigation.

154. On November 22, 2021, at approximately 8:56 a.m., the Justices served D.C.A. Holmes with a pre-trial conference report formally setting out their position that the OCAO and police had engaged in a coordinated effort to manufacture evidence, suppress exculpatory material, and knowingly prosecute them without reasonable and probable grounds. Approximately three hours later, masked individuals appeared outside the Justices' residence in broad daylight, employing what appeared to be surveillance equipment directed toward them and their property. The

Justices personally observed this incident, which was independently recorded on video by a neighbouring resident.

155. Upon reviewing the video footage provided by the neighbour and examining recordings from their own home surveillance system, the Justices discovered that their equipment had inexplicably failed to capture the incident, despite having been fully operational immediately beforehand. The cause of this malfunction remains unknown. Approximately 24 hours later, the neighbour independently recorded additional video footage depicting a second incident involving similar individuals engaging in comparable conduct. Again, the Justices' surveillance system inexplicably failed to capture this second incident. Shortly thereafter, the Justices identified evidence of unauthorized access to their home network. Given the precise timing of these incidents—mere hours after the Justices served D.C.A. Holmes with formal allegations concerning the OCAO and police—the Justices plead that these circumstances raise serious concerns regarding a deliberate attempt to intimidate them and interfere with their pursuit of justice.

156. On November 26, 2021, during a pre-trial hearing before the Honourable Justice Catherine D. Aitken of the Superior Court of Justice, the Justices reaffirmed their position that their prosecution was without reasonable and probable grounds and improperly motivated. Despite his duty to ensure the accuracy and completeness of the evidentiary record, to disclose all relevant exculpatory evidence, and to prevent the Court from being misled, D.C.A. Holmes permitted material misstatements of fact to persist uncorrected. Moreover, notwithstanding his awareness of simultaneous, materially identical prosecutions arising from the same underlying conduct, he failed to disclose this procedural duplication to the Court.



157. During the hearing, the Justices also raised specific concerns with D.C.A. Holmes regarding the incidents that took place at their residence on November 22 and 23, 2021, stating that the surrounding circumstances strongly suggested they had been subjected to covert surveillance directly in response to the allegations set out in their pre-trial conference report. The Justices emphasized that no incidents of this nature had occurred previously and that, given the exact timing, no reasonable alternative explanation existed.

158. Following the hearing, on November 27, 2021, the Justices emailed D.C.A. Holmes, attaching images of the vehicles involved in the incidents, explicitly raising concerns regarding their personal safety and requesting clarification as to whether the OCAO had engaged external agencies to conduct surveillance on them. D.C.A. Holmes did not respond to this correspondence.

159. By failing to disclose exculpatory evidence, initiating additional charges despite evident deficiencies in the case, and compelling Mr. Justice to simultaneously defend two prosecutions founded upon materially identical allegations, evidence, and underlying conduct, D.C.A. Holmes acted in a manner incompatible with his prosecutorial duties and the fundamental principles of justice. These actions imposed unjustified procedural burdens, compromised the integrity of the prosecution, and materially impaired Mr. Justice's ability to meaningfully respond to the charges against him.

160. The Justices plead that, taken as a whole, the Crown's conduct—including:

- (a) excluding them from the anticipated third judicial pre-trial while proceeding in their absence;

- (b) directing the issuance of bench warrants while effectively denying them access to the hearing;
- (c) deliberately pursuing a duplicative prosecution without valid legal justification;
- (d) failing to disclose exculpatory evidence that undermined the legal basis for continued prosecution under the *Criminal Code*; and
- (e) the sudden appearance of masked individuals within hours of their filing formal allegations against law enforcement and the OCAO—

gives rise to a compelling inference that the prosecution was not undertaken in good faith but rather for an improper purpose, including suppressing liability or scrutiny, securing a wrongful conviction or plea, and interfering with their stated intent to seek civil damages against the Crown.

161. The Justices further plead that the Crown and law enforcement improperly leveraged the justice system to sustain an otherwise untenable prosecution, thereby causing prolonged reputational harm, severe psychological distress, and significant financial loss.

### **The First *Charter* Challenge**

162. Following an extraordinary 1,225-day delay in the prosecution of the charge under the *RTA*, Mr. Justice appeared virtually in Provincial Offences Court on October 3, 2022, for a proceeding scheduled as a trial. Throughout the proceedings, he had consistently maintained his innocence and sought to introduce exculpatory evidence that was directly relevant to his defence

and integral to his pending *Charter* challenge under section 11(h). His legal position was that, upon the conclusion of the trial, the continuation of the criminal prosecution—premised on materially identical allegations—would constitute *double jeopardy* and engage a constitutional bar under section 11(h) of the *Charter*.

163. At the outset of the hearing, Provincial Prosecutor Vinicius Oliveira (“**P.P. Oliveira**”) confirmed that the Crown’s case was premised on the anticipated testimony of three witnesses: the Complainant Landlord; D.L., her former legal counsel who had represented her during the LTB proceedings; and an investigator from Interac Corp., whose evidence was expected to support the Crown’s allegation that Mr. Justice had submitted falsified rent receipts.

164. The Crown’s disclosure stated that the anticipated evidence from Interac Corp. was intended to establish that the rent receipts, dated August 2018 to January 2019, bore the copyright name “Acxsys Corporation,” which ceased to exist following a corporate reorganization in September 2018. The Crown asserted that this discrepancy indicated falsification, as, in its view, legitimate Interac receipts issued after the reorganization would have reflected the updated copyright name, “Interac Corp.” The disclosure further indicated that the Complainant Landlord and her former legal counsel were expected to testify that they had personally observed Mr. Justice submit these receipts to the LTB adjudicator, representing that he had made the disputed payments.

165. In his defence, Mr. Justice sought to introduce exculpatory evidence from representatives of Scotiabank and the Royal Bank of Canada, as well as from former LTB Vice Chair Sylvie Charron, who had presided over the hearing in which he was accused of submitting falsified receipts. The anticipated banking evidence was expected to establish that both the Justices and

the Complainant Landlord were likely victims of Interac e-transfer interception fraud, that financial institutions—not Interac Corp.—program the copyright names displayed on e-transfer receipts, and that the copyright name “Acxsys Corporation” remained in use on e-transfer receipts issued by these institutions until February 2019—after the dates on Mr. Justice’s rent receipts—directly refuting the Crown’s allegations of falsification. Vice Chair Charron’s anticipated testimony was expected to confirm that Mr. Justice had made legitimate efforts to pay rent, contradicting the findings of a subsequent adjudicator who relied on Det. White’s testimony. She was further expected to establish that her ruling in favour of the Justices resulted from her own independent assessment after both parties, at her direction, demonstrated the possibility of e-transfer interception fraud during the LTB hearing—not from any improper influence by Mr. Justice.

166. Shortly after the hearing commenced, the Crown advised the Court that the Complainant Landlord and her former legal counsel had failed to appear despite having been duly served with subpoenas. As a result, the Crown was unable to adduce the evidence required to establish the essential elements of the offence and was left with no alternative but to enter a stay of proceedings.

167. More than a year earlier, in May 2021, the two-year statutory limitation period under section 239 of the *RTA* had expired, precluding any further prosecution of the offence under section 234(v) beyond the scheduled October 3, 2022, trial date as statute-barred. In light of this procedural bar, Mr. Justice maintained his *Charter* challenge under section 11(h), asserting that the criminal prosecution was materially indistinguishable from the Provincial Offences Court proceedings, where the Crown’s failure to establish the elements of the offence, at law,

constituted a final determination of the allegations. As reinstatement of the proceedings was statutorily precluded, he argued that proceeding with a criminal trial for the same conduct was inconsistent with the principles of fairness, finality, and fundamental justice enshrined in section 11(h) of the *Charter*.

168. On December 13, 15, and 20, 2022, the Justices advanced multiple *Charter* applications, with Mr. Justice's section 11(h) challenge as the central issue. He argued that the Crown, having failed to establish the essential elements of the offence in the first prosecution, was now impermissibly seeking to subject him to a second trial for the same impugned conduct, thereby violating his constitutional protection against double jeopardy. He further asserted that the Crown was not entitled to circumvent section 11(h) by supplementing its case with additional arguments, introducing new legal theories, or pursuing a second proceeding with heightened punitive consequences in a criminal court. The Provincial Offences Court hearing—scheduled as a trial—had commenced and concluded with the effective termination of the proceedings. In these exceptional circumstances, he maintained that this outcome was tantamount to an acquittal for the purposes of section 11(h).

169. A.C.A. John Ramsay was specifically assigned to oppose the *Charter* applications and advocate for their dismissal. In response to Mr. Justice's section 11(h) application, the Crown argued that double jeopardy protections were not engaged, asserting that Mr. Justice had not been “finally acquitted” in Provincial Offences Court. The Crown maintained that, because those proceedings had concluded with a stay rather than a formal acquittal, section 11(h) did not preclude further prosecution.

170. Mr. Justice refuted this argument, asserting that the stay was, in effect, a withdrawal, as the prosecution was statute-barred beyond the scheduled trial date, leaving the Crown with no lawful mechanism for reinstatement. He maintained that the duplicative nature of the criminal charges, coupled with the nearly two-year period in which both prosecutions had proceeded in parallel toward trial, required that the stay be recognized as a final determination of the matter. Any other interpretation, he argued, would facilitate an abuse of process.

171. The Honourable Justice Sally A. Gomery (“**Justice Gomery**”) dismissed Mr. Justice’s section 11(h) *Charter* application; however, Mr. Justice pleads that Her Honour erred in law by misapprehending the finality of the prior prosecution. Specifically, Her Honour proceeded under the mistaken belief that the Crown retained the authority to reinstate the Provincial Offences Court proceedings within one year, notwithstanding that those proceedings had already been statute-barred pursuant to section 239 of the *RTA*. He further pleads that this material legal error resulted in the misapplication of section 11(h) of the *Charter*, thereby depriving him of constitutional protection against double jeopardy and permitting the continuation of proceedings that were legally untenable and jurisdictionally barred.

172. Although the *Charter* applications were dismissed, the proceedings exposed a deliberate prosecutorial maneuver by the OCAO that would not have otherwise come to light before trial. On December 20, 2022—just two weeks before the scheduled commencement of the criminal trial—the Justices discovered that the OCAO had unilaterally altered its witness strategy, fundamentally shifting the prosecution’s case. Until that point, the OCAO had consistently maintained that the witnesses for the criminal trial were entirely distinct from those in the Provincial Offences Court proceedings. Relying on these representations, the Justices had

prepared to cross-examine the originally disclosed witnesses: Cst. McElravy, who had obtained the judicial authorizations for Scotiabank and the Bank of Montreal; S/Sgt. Desjourdy; and Det. White.

173. However, on December 20, 2022, the Justices learned that the OCAO had, without prior notice, revised its witness list, omitting previously disclosed witnesses and substituting only the three witnesses originally expected to testify in the Provincial Offences Court proceedings: the Complainant Landlord and her former lawyer—both of whom had already failed to appear at the earlier trial—and the Investigator from Interac Corp., who had been present but was not called by the Crown. This undisclosed revision not only directly contradicted the Crown’s prior representations but also confirmed that the two cases were legally indistinguishable, reinforcing the Justices’ position that the prosecutions were improperly duplicative and constituted an abuse of process.

174. The OCAO undermined procedural fairness by securing the Complainant Landlord’s attendance at the criminal trial while failing to take any steps to coordinate with the Provincial Prosecutor to secure her presence at the scheduled Provincial Offences Court trial three months earlier. The Justices later discovered that the OCAO had arranged for the Crown to facilitate the Complainant Landlord’s travel from Regina, Saskatchewan, covering her airfare and hotel accommodations to ensure her testimony at the criminal trial. However, no equivalent steps were taken to secure her attendance at the Provincial Offences Court trial, where her failure to appear resulted in the proceedings being terminated before a determination on the merits. This disparate prosecutorial treatment reflects a deliberate prioritization of securing a criminal conviction over

ensuring procedural fairness, reinforcing the Justices' position that the prosecutions were pursued in bad faith and deliberately engineered to produce an unjust outcome.

175. The Justices plead that these actions constituted a deliberate effort by the OCAO to:

- (a) conceal the substantive equivalence of the two proceedings;
- (b) withhold material information regarding witness availability;
- (c) selectively secure witness attendance only when it advanced the Crown's prosecutorial objectives; and
- (d) manipulate trial proceedings, thereby undermining the fair administration of justice and violating their right to a fair trial.

### **The Mistrial and Health Crisis**

176. The OCAO engaged in a pattern of systematically rotating prosecutors throughout the proceedings, reassigning new counsel in a manner that fragmented prosecutorial responsibility and obscured individual accountability for the conduct of the prosecution. By the time of the criminal trial, A.C.A. Rodgers became the eighth prosecutor assigned to the case, despite having had no prior involvement in the matter. The timing and frequency of these reassignments—particularly at pivotal stages—ensured that no single prosecutor bore ongoing responsibility for the cumulative prosecutorial decisions.



177. The Justices plead that this deliberate and systematic strategy was employed to obscure the origins of key prosecutorial decisions, insulate individual prosecutors from scrutiny and liability, and create an artificial separation between successive Crown counsel while preserving unbroken continuity in the Crown's overarching strategy. They further plead that despite the recurrent reassignments, the Crown's prosecutorial objectives and litigation tactics remained unchanged, reinforcing that these rotations were not merely administrative but a calculated effort to shield the OCAO from accountability while maintaining control over the prosecution's direction.

178. On January 3, 2023, a jury trial commenced in the Superior Court of Justice. The OCAO proceeded with a prosecution that was materially indistinguishable from the Provincial Offences Court case, which had been effectively abandoned when the Crown failed to adduce any evidence at the scheduled trial.

179. The Justices plead that this re-prosecution was unlawful and irreconcilable with the principles of fundamental justice, procedural fairness, and due process.

180. During jury selection on January 3, 2023, significant procedural irregularities arose when 63 of the 93 randomly selected prospective jurors failed to appear when called, with no immediate explanation provided to the Justices. The cause of their absence was not disclosed until January 6, 2023—after the Crown had already rested its case. This unexplained and substantial departure from established jury selection procedures—particularly within the broader context of procedural anomalies and the prosecution's conduct—raises serious concerns regarding the integrity of the jury selection process and the potential for improper external influence over its composition.

181. On January 5, 2023, the Crown closed its case after calling only three witnesses: the Complainant Landlord, her former legal counsel, D.L., and an Investigator from Interac Corp. These were the same three witnesses first disclosed only two weeks before trial, all of whom had previously been scheduled to testify in the parallel and duplicative Provincial Offences Court case. No additional witnesses were called to establish the charges.

182. The Justices plead that the Crown lacked reasonable and probable grounds to prosecute prior to trial. Alternatively, even if such grounds had initially existed, they were extinguished by the close of the Crown's case, as the evidence failed to establish the essential elements of the alleged offences, as demonstrated by the following facts:

(a) Lack of Identification Evidence

the Complainant Landlord's former legal counsel, D.L., was unable to identify the Justices in court. When asked by A.C.A. Rodgers whether he could confirm their identities, he testified: "I can't—I meet a lot of people. I recognize sort of unusual circumstances often, but the—the two people who are there look somewhat familiar, but I wouldn't swear that they are the individuals who were at the [LTB];"

(b) No Evidence Confirming the Justices' Attendance at the LTB Hearing

the Complainant Landlord could not confirm whether the Justices attended the LTB hearing or whether they had submitted the disputed rent receipts. When asked by A.C.A. Rodgers, "Did [Mr. Justice] attend that hearing?" she testified, "I

don't recall." When further asked whether Mrs. Justice attended, she again replied, "I don't recall;"

(c) Landlord's Admission of No Intent to Recover Alleged Rent Arrears

under cross-examination by Mr. Justice, the Complainant Landlord admitted that she had no interest in collecting the alleged rent arrears, testifying: "I wanted to bless [Mr. Justice] with that money." This admission directly undermined the Crown's position that the alleged misrepresentation had any legal relevance, whether by depriving her of rent, supporting any claim of economic harm, or interfering with the administration of justice; and

(d) Inconsistencies in Interac Corp.'s Evidence

Ms. Joanna Schoneveld, an Investigator from Interac Corp., directly contradicted the Crown's allegations by testifying that two of the six disputed rent receipts had not been falsified. She further confirmed that:

- (i) Interac Corp. conducted a review of the disputed rent receipts at the request of Det. White in May 2019;
- (ii) Interac Corp. did not receive a production order authorizing access to the underlying transaction records;
- (iii) no e-transfer transactions were traced, analyzed, or verified for potential fraud; and

- (iv) Interac Corp.'s review relied exclusively on the copyright name displayed on the receipts provided by Det. White, rather than on any independent financial analysis.

183. Despite these fundamental evidentiary deficiencies, the Crown proceeded with the prosecution. The Justices plead that the Crown failed to reassess its case at trial, perpetuating a prosecution devoid of any evidentiary foundation and subjecting them to prolonged emotional, financial, and reputational harm.

184. On January 6, 2023, the courtroom filled with supporters gathered to witness the Justices begin their anticipated defence. Recognizing the evidentiary deficiencies, the Justices intended to move for a directed verdict, anticipating an outright dismissal. However, before the matter could proceed, Justice Gomery halted the trial, citing procedural irregularities that had compromised its integrity.

185. Justice Gomery explained that at the outset of the trial, a flood had rendered the only courtroom large enough to accommodate the full jury panel unusable, necessitating relocation to a smaller courtroom. Citing section 22 of the *Juries Act*, R.S.O. 1990, c. J.3, Her Honour ordered a subdivision of the jury panel. However, this subdivision occurred in the Justices' absence and without disclosure of the method used. Upon reviewing *R. v. Josipovic*, 2020 ONSC 5917, which confirmed that jury subdivision must occur in the presence of the accused, Her Honour expressed "serious concerns" regarding the trial's legality and tentatively declared a mistrial.

186. Justice Gomery adjourned the case for the weekend to allow A.C.A. Rodgers and the OCAO time to research and propose potential curative measures. When proceedings resumed

virtually on January 9 and 10, 2023, Mrs. Justice appeared visibly unwell and advised the Court that she had been prescribed medication for a respiratory infection, prompting Her Honour to adjourn the trial for an additional week.

187. On January 16, 2023, Mr. Justice filed a sworn affidavit detailing concerns regarding procedural irregularities in the jury selection process, asserting that these issues compromised the impartiality of the empaneled jury. He identified multiple jurors with potential conflicts of interest, including individuals with prior connections to government agencies and organizations involved in disputes with the Justices. One such juror, employed in the criminal investigations division of the Canada Revenue Agency, provided written notice to the Court on January 4, 2023—the second day of trial—disclosing her employment role. In response, Justice Gomery directed her removal from the panel.

188. On January 17, 2023, upon the resumption of proceedings, A.C.A. Rodgers argued that the *curative proviso* under section 686(1)(b)(iv) of the *Criminal Code* would uphold any conviction despite the procedural irregularities. The Court accepted this argument, and the trial proceeded. During the proceedings, Mr. Justice became violently ill at the counsel table, experiencing repeated episodes of uncontrollable vomiting. Despite his evident medical distress, A.C.A. Rodgers insisted that the Justices immediately commence their defence, arguing that any further delay would unduly burden key witnesses, including Vice Chair Charron, who had already appeared multiple times in anticipation of testifying. Justice Gomery granted this request, directing the Justices to proceed with their first witness immediately after the lunch recess.

189. During the lunch recess, Mr. Justice suffered a medical emergency, losing consciousness, falling, and sustaining injuries. Upon regaining consciousness, he called 911 from within the

courthouse to request paramedic assistance. Paramedics arrived and, after conducting an assessment, determined that immediate hospitalization was medically necessary. However, at the request of A.C.A. Rodgers and with the approval of Justice Gomery, paramedics were instructed to discontinue treatment. Acting on this directive, six police officers physically intervened, interfering with medical procedures by handling paramedic equipment and preventing further assessment or stabilization, thereby delaying the urgent medical care that paramedics had deemed necessary.

190. An attending paramedic, J.I., appeared in court and provided an assessment of Mr. Justice's medical condition, stating that it was severe and required immediate hospitalization. Although not under oath, J.I.'s professional medical evaluation was placed before the Court. Despite this, A.C.A. Rodgers objected to Mr. Justice receiving medical care, asserting that the medical emergency was fabricated. When asked whether the Crown consented to hospitalization in light of the paramedic's professional assessment, A.C.A. Rodgers stated, "Your Honour, no. It's, in my view, a ploy."

191. The six attending police officers permitted Mrs. Justice to record video evidence documenting Mr. Justice's deteriorating condition while the paramedic addressed the Court. Mrs. Justice subsequently presented the footage to Justice Gomery in support of an urgent request for Mr. Justice to receive immediate medical attention. Upon considering this evidence in conjunction with the paramedic's professional medical evaluation, Justice Gomery overruled the Crown's objections and authorized Mr. Justice's transport for emergency care.

192. Mr. Justice was transported by ambulance to The Ottawa Hospital, where he was admitted and diagnosed with diabetic ketoacidosis and COVID-19. During his hospitalization,

hospital staff took a direct interest in the legal proceedings and questioned both Justices about the nature of the case and whether they faced any potential personal security risks. Given the extraordinary nature of these inquiries, the broader circumstances of Mr. Justice's medical emergency, and the manner in which it unfolded within the courthouse, the Justices understood these inquiries as an indication that hospital staff harbored concerns that individuals involved in the prosecution may have endangered Mr. Justice's health, either intentionally or recklessly. Reinforcing this concern, hospital staff stationed security personnel outside Mr. Justice's room throughout his admission.

193. Pursuant to submissions from A.C.A. Rodgers, Justice Gomery ordered the disclosure of the Justices' medical records. These records confirmed that Mr. Justice had suffered a documented and severe health crisis, directly refuting prior assertions that his condition had been exaggerated or fabricated. The records further established that both Justices had tested positive for COVID-19 and were subject to mandatory quarantine measures. In light of these findings, the trial was adjourned to accommodate their medical needs and ensure compliance with public health directives.

194. On January 30, 2023, Mr. Justice filed a sworn affidavit alleging a strong appearance of bias, citing A.C.A. Rodgers' characterization of the medical emergency as a "ploy" and efforts to obstruct treatment, despite personally witnessing his deteriorating condition and hearing the paramedic's professional assessment before the Court. He asserted that this conduct recklessly endangered his health and well-being by delaying immediate emergency treatment, which hospital physicians later confirmed had been medically necessary.

195. Mr. Justice pleads that A.C.A. Rodgers' deliberate disregard of the medical emergency and obstruction of access to necessary medical care, despite objective medical evidence confirming the urgency of hospitalization, constituted a willful and callous disregard for his health and safety. He further pleads that this conduct was fundamentally incompatible with the fair administration of justice and gives rise to a compelling inference that the prosecution was pursued with an improper and oblique motive, prioritizing conviction over fundamental legal and ethical obligations.

196. In light of Mr. Justice's affidavit and the circumstances surrounding his health crisis, Justice Gomery ruled that the Court could no longer sustain the appearance of fairness and, accordingly, declared a mistrial on January 30, 2023—25 days after the Crown had closed its case. Citing the affidavit and the gravity of the allegations concerning procedural fairness, Her Honour stated: "I have given [Mr. Justice's] affidavit a great deal of thought, and Mr. Rodgers, I am considering the possibility at this point of a mistrial."

197. In response, A.C.A. Rodgers urged the Court not to declare a mistrial, arguing that the Justices had deliberately engineered the circumstances to disrupt the proceedings. He stated:

I mean, really, in my view, this is something that at least is in part or was orchestrated by [Mr. and Mrs. Justice]. ... The Crown's case is in. It's been in for almost a month now since January 5th. I'd urge, Your Honour, in these circumstances not to declare a mistrial. I think there are other avenues that we can take to keep this on the rails. I know where Your Honour's coming from. It's frustrating, but a mistrial is a remedy of last resort, and I say we're not there yet.

198. However, Justice Gomery rejected this argument and proceeded to declare a mistrial, stating:



... whatever my views about the affidavit that [Mr. Justice] has presented, we are still in the middle of a health crisis. ... I think that if I were to conclude that it is not genuine, contrary to what he says in his affidavit, there would be a difficulty in me continuing to preside over this trial and maintain the appearance of fairness. So, having heard what you have to say, and sharing your sense of frustration, I am nonetheless going to declare a mistrial.

199. In response, A.C.A. Rodgers informed the Court that the Crown intended to proceed with a retrial, thereby continuing the prosecution without re-evaluating its legal or evidentiary foundation.

200. The Justices plead that, taken as a whole, the Crown's conduct—including:

- (a) the deliberate and tactical fragmentation of prosecutorial responsibility through repeated reassignments of prosecutors;
- (b) the prosecution of the same underlying allegations and evidence from the parallel Provincial Offences Court case under the *Criminal Code*, circumventing statutory jurisdiction and procedural safeguards;
- (c) the suppression, mischaracterization, and distortion of material evidence to sustain a prosecution devoid of an evidentiary foundation;
- (d) the insistence on proceeding despite the Court's discovery of serious procedural irregularities in jury selection, which fundamentally compromised the fairness of the proceedings;

- (e) the failure to re-evaluate the viability of the prosecution at trial, despite clear evidentiary deficiencies and Crown witnesses' inability to establish the essential elements of the alleged offences; and
- (f) the deliberate disregard for and obstruction of urgent medical treatment for Mr. Justice, despite objective medical evidence confirming the urgency of his deteriorating condition—

gives rise to a compelling inference that the prosecution was knowingly maintained in the absence of reasonable and probable grounds, and was pursued for an improper and ulterior purpose rather than being guided by the interests of justice.

### **The Third Series of Unfounded Criminal Charges**

201. In February and March 2023, the matter was referred to assignment court, during which A.C.A. Karimjee replaced A.C.A. Rodgers, becoming the ninth prosecutor assigned to the case by the OCAO. From the outset of his involvement, the Justices meticulously documented A.C.A. Karimjee's conduct and demeanor. In light of the prosecution's history—defined by the OCAO's prior handling of the case and its persistent, yet unsuccessful, efforts to secure convictions—his approach gave rise to a reasonable apprehension of bias.

202. Following his discharge from the hospital, Mr. Justice was diagnosed with post-acute sequelae of COVID-19 (long-haul COVID-19), resulting in a medical incapacity that rendered him unable to attend court proceedings. Based on substantial medical evidence presented during the trial, the Honourable Justice Robyn M. Ryan Bell, presiding in assignment court, granted Mr.

Justice an exemption from attendance for the scheduled appearances on February 7, February 17, and March 3, 2023, requiring only Mrs. Justice to be present.

203. Her Honour deferred the scheduling of a new trial until Mr. Justice was medically fit to proceed. Despite this judicial determination—supported by accepted medical findings—A.C.A. Karimjee objected to any adjournment and insisted that trial dates be scheduled immediately. When the Court declined to set trial dates in Mr. Justice’s absence, A.C.A. Karimjee directly contacted Mr. Justice’s physician, Dr. A.S., and, by his own admission, sought to challenge the medical assessment upon which the Court had relied. In open court, A.C.A. Karimjee explicitly stated that his purpose in contacting the physician was to ask, “Why can’t [Mr. Justice] participate in a virtual appearance?” and further asserted, “There’s absolutely no reason why he cannot attend virtually to set trial dates.” This assertion directly conflicted with the Court’s prior acceptance of medical evidence confirming incapacitation.

204. On March 3, 2023, A.C.A. Karimjee placed a call to the medical clinic where Dr. A.S. practiced. Upon reaching the clinic’s receptionist, N.W., he was advised that Dr. A.S. was unavailable. Without lawful authority under the *Personal Health Information Protection Act*, 2004, S.O. 2004, c. 3, Sched. A (“**PHIPA**”), A.C.A. Karimjee requested that the receptionist disclose confidential medical information regarding Mr. Justice’s past appointments, including their nature and timing. This request was made absent a warrant, court order, statutory authorization, or any other lawful basis, constituting a clear contravention of *PHIPA* and violating established privacy protections.

205. Mr. Justice pleads that these actions amounted to an intentional and unjustifiable intrusion upon his reasonable expectation of privacy. He further pleads that the unauthorized

request for personal health information constituted a direct statutory breach of *PHIPA*, reinforcing the deliberate and unlawful nature of the conduct.

206. However, in the absence of a warrant or court order, the receptionist later acknowledged to the Justices that she had limited the disclosure of medical information, declining to provide A.C.A. Karimjee with full access to Mr. Justice's medical file. Specifically, she either withheld or had not yet received details regarding Mr. Justice's most recent check-up on March 2, 2023, as documented in his March 3, 2023, affidavit.

207. Later that same day, on March 3, 2023, after cross-referencing the physician's schedule with Mr. Justice's reported appointment history, A.C.A. Karimjee asserted before the Court that a discrepancy existed, implying that the physician had been absent from the clinic at the relevant time. However, the appointment had occurred through the clinic's virtual care system rather than in person, rendering his assertion factually inaccurate and materially incomplete.

208. Upon identifying what he purported to be a discrepancy between Dr. A.S.'s schedule and Mr. Justice's reported appointment history, A.C.A. Karimjee, in coordination with S/Sgt. Desjourdy, initiated efforts to advance a third set of criminal charges. On or about March 20, 2023, S/Sgt. Desjourdy contacted Dr. A.S., alleging that Mr. Justice had forged a medical document in his name.

209. After the proceedings concluded, Dr. A.S. explicitly informed Mrs. Justice on January 28, 2025, that he had neither consented to nor supported the laying of any charges, stating: "I did not agree to charge you or [Mr. Justice]."

210. Despite Dr. A.S.'s explicit refusal, available documentary records indicate—and Dr. A.S. later confirmed to Mrs. Justice—that S/Sgt. Desjourdy repeatedly contacted him, asserting that he had a professional obligation to support the initiation of charges against Mr. Justice. Additional records further indicate that S/Sgt. Desjourdy relied on an email response allegedly authored by Dr. A.S., dated March 22, 2023, as justification for advancing additional charges.

211. However, on January 28, 2025, Dr. A.S. unequivocally denied having authored, sent, or endorsed any such correspondence. He further confirmed that he had never authorized any charges against Mr. Justice and, in direct conversation, stated: “I didn’t do anything. There’s no signature from me saying I agreed to charge someone—show me where.”

212. Dr. A.S. further confirmed that while he was aware police were investigating Mr. Justice, he had no knowledge that Mrs. Justice was also under investigation, that police intended to file joint charges against her, or that she had any connection to the alleged incident. He stated that S/Sgt. Desjourdy explicitly informed him that the investigation pertained solely to Mr. Justice. In direct conversation with Mrs. Justice, Dr. A.S. reaffirmed this understanding, stating, “You didn’t allegedly do anything to me, so police should not have charged you for anything.”

213. Nevertheless, on or about March 22, 2023, S/Sgt. Desjourdy unilaterally caused joint charges to be pursued against both Justices, despite the absence of any evidence implicating Mrs. Justice or establishing any connection between her and the allegations.

214. On March 22, 2023, S/Sgt. Desjourdy emailed the Justices, advising that additional charges of perjury, obstruction of justice, and use of a forged document were being pursued against them. The following day, on March 23, 2023, Mrs. Justice responded via email, disputing

the legitimacy of these charges and asserting that S/Sgt. Desjourdy had improperly fabricated evidence against Mr. Justice as a pretext for initiating legal action against her. She stated that she had no involvement with the medical document in question, had made no representations to the Court regarding its contents, and that no factual or legal basis existed to link her to the allegations.

215. Mrs. Justice further stated that the decision to charge her, despite the absence of any evidence implicating her, constituted an unjustified expansion of the prosecution. In her email, she asserted that this escalation reflected a broader pattern of conduct by S/Sgt. Desjourdy, in which legal processes were weaponized as a means of reprisal following the initiation of the original criminal charges.

216. Concerned by the escalating legal threats against her, Mrs. Justice took proactive steps to seek accountability. Between March 23 and March 27, 2023, she disseminated an email to thousands of key stakeholders within the justice system, including law enforcement agencies and Crown Attorney's offices across Ontario. In her correspondence, she formally requested an inquiry into the legal and procedural basis for S/Sgt. Desjourdy's pursuit of additional charges against her. To support her request, she attached the complete email chain with S/Sgt. Desjourdy—previously copied to Superintendents Lisa McDermott-Bryant and François D'Aoust of the Ottawa Police Service—detailing his stated intent to pursue new charges.

217. Mrs. Justice specifically highlighted that S/Sgt. Desjourdy had asserted his intention to charge her with perjury, despite the sworn affidavit in question having been executed solely by Mr. Justice. She referenced her written inquiry to S/Sgt. Desjourdy regarding this discrepancy, to which he responded, "Your name appears at the top of the document." In reply, Mrs. Justice

clarified that the line to which he referred was merely the title of the proceeding and that, directly below it, the document explicitly identified Mr. Justice as the affiant. She further emphasized that she neither authored nor swore the affidavit, made no representations regarding its contents, and had no legal or factual connection to the document in question.

218. On March 27, 2023, Professional Standards Coordinator Megan Herasimenko of the Ottawa Police Service Professional Standards Unit responded to Mrs. Justice's inquiries concerning S/Sgt. Desjourdy. In her reply, the Professional Standards Coordinator confirmed the Unit's awareness of the matter and issued an express advisory to file a complaint and request an investigation, thereby constituting an institutional acknowledgment of Mrs. Justice's concerns regarding S/Sgt. Desjourdy's conduct. She wrote:

Please note that our office has been made aware of this incident, and we would suggest you make a formal complaint and request an investigation with respect to this police officer's conduct.

219. On March 27, 2023, Mr. Justice attended assignment court as scheduled, where dates were set for the Justices to proceed with a second series of *Charter* applications. The assignment court judge, the Honourable Julianne A. Parfett, upheld the Justices' right to bring these applications over the objections of A.C.A. Karimjee, who opposed granting them another opportunity to advance constitutional challenges. The objections raised by A.C.A. Karimjee reflected the OCAO's position that the matter should proceed to retrial without further delay, despite the Justices' assertion of their *Charter* rights.

220. Following their court appearance, the Justices exercised their procedural rights on April 8, 2023, by requesting subpoenas from the Criminal Administration Office of the Ministry of the

Attorney General's Court Services Division, located on the second floor of the Ottawa Courthouse. These subpoenas were issued to compel the attendance of key individuals at the upcoming *Charter* application hearings, including S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, and P.P. Oliveira.

221. In April 2023, Mr. Justice made a critical discovery: fragments of the deleted footage from his detention in the parking lot had been inadvertently backed up to an external hard drive. Although not all video clips were recovered, the available footage was sufficient to reconstruct a detailed and compelling account of the incident, depicting conduct inconsistent with lawful policing standards. Determined to ensure that this evidence was properly preserved and subjected to appropriate scrutiny, Mr. Justice meticulously compiled and edited the recovered footage into *Unlawful Intimidation*, a documentary-style video that materially contradicted key assertions contained in the officers' official reports.

222. The documentary captured Cst. Tessier, Cst. Nizman, and other officers positioning their police vehicles to form a physical barricade around Mr. Justice's vehicle, preventing him from leaving while he remained seated in the driver's seat. It further recorded officers attempting to compel Mr. Justice to sign an undertaking imposed by S/Sgt. Desjourdy—absent lawful authority, judicial order, or any valid legal basis. The video footage also captured the precise moment when officers, without prior warning or apparent lawful justification, suddenly converged on Mr. Justice, escalating the encounter through direct and unwarranted physical intervention.



223. Additionally, Unlawful Intimidation incorporated excerpts from the official reports of Cst. Tessier and Cst. Nizman, juxtaposing their documented written statements against the video footage to demonstrate material inconsistencies between their accounts and the objectively recorded events.

224. Upon its release by Mr. Justice across multiple social media platforms, Unlawful Intimidation garnered widespread attention, rapidly going viral and amassing over 6.8 million views. The public response was immediate and overwhelming, generating extensive documented concern regarding the officers' apparent departure from lawful authority and fueling calls for accountability, independent investigation, and systemic reform.

225. On or about April 18, 2023, S/Sgt. Desjourdy applied for a *Feeney* warrant before Justice of the Peace Nathalie Breton, sitting in Haileybury, Temiskaming Shores, Ontario, seeking judicial authorization to forcibly enter the Justices' home to arrest and detain them. Her Worship denied the application and instead issued first-instance arrest warrants, explicitly endorsed for their release. On or about the same date, S/Sgt. Desjourdy emailed copies of the arrest warrants to the Justices but omitted the endorsement pages, thereby concealing that their release had been judicially ordered.

226. On May 10, 2023, tactical officers Cst. Sabourin and Cst. Kuyi apprehended Mr. Justice while he was en route to the bank. He surrendered peacefully, and the arrest occurred without incident. Despite this, acting without any statutory or common law authority, S/Sgt. Desjourdy directed the tactical officers to seize Mr. Justice's mobile device without a warrant, judicial authorization, or any lawful basis under the *Criminal Code* or the *Charter*. While awaiting

transport to the police station, the officers remarked to Mr. Justice, “[S/Sgt. Desjourdy] only pursued these charges because you weren’t dealing with his charges from 2021.”

227. S/Sgt. Desjourdy attempted to justify the warrantless and unlawful seizure of Mr. Justice’s mobile device by alleging that it had been used to send a text message encouraging G.L., a Paralegal and Notary Public regularly contracted by the Justices, to file a formal complaint regarding his conduct. In his police report, S/Sgt. Desjourdy stated: “I believe his cell phone number ‘9669’ was used to participate in an offence related to impersonation (s. 403 *Criminal Code*) and public mischief (s. 140(1) *Criminal Code*).” However, the number he identified as allegedly sending the message—and the one he claimed to have seized—belonged exclusively to Mrs. Justice. In reality, S/Sgt. Desjourdy did not seize that device. Instead, he unlawfully seized Mr. Justice’s mobile device, which bore a distinct number ending in 6996.

228. Mr. Justice pleads that this was neither an oversight nor a mistake but a deliberate and calculated act, as S/Sgt. Desjourdy’s extensive involvement in the Justices’ legal proceedings meant he knew—or ought to have known—the distinction between their respective mobile numbers.

229. Moreover, Mr. Justice pleads that the warrantless seizure of his device was neither incidental nor legally justified but was instead intentional, strategic, and unlawful, deliberately impeding the Justices’ ability to sustain themselves amid their ongoing legal battle. Through his continuous involvement in the proceedings, S/Sgt. Desjourdy knew—or ought to have known—that Mr. Justice relied on his mobile device to operate his business, which contained security credentials and highly sensitive operational data essential to its function.

230. The Justices plead that S/Sgt. Desjourdy knew—or ought to have known—that the message in question originated from Mrs. Justice’s device, not Mr. Justice’s, and that she had merely responded to a direct request from G.L., who had independently sought guidance on filing a formal complaint regarding his conduct.

231. In or about April 2023, G.L. approached Mrs. Justice, expressing grave concerns that S/Sgt. Desjourdy was “harassing [her]” and that she was “certain he filed a malicious and baseless complaint with the Law Society of Ontario to have [her] professionally silenced in retaliation for declining to provide information to police that [she] had no legal obligation to disclose.” G.L. further cautioned Mrs. Justice to remain vigilant, warning: “Watch out and stay safe. [S/Sgt. Desjourdy] is coming after you and is out for vengeance.”

232. With Mr. Justice in custody, S/Sgt. Desjourdy turned his attention to Mrs. Justice. He asserted that he was in possession of a *Feeney* warrant and warned that he would forcibly enter the Justices’ home if she did not immediately comply and surrender herself into custody. Relying on this claimed legal authority, Mrs. Justice believed she had no lawful alternative and felt compelled to surrender. Only later did she discover the material fact that no *Feeney* warrant had been issued and that she had been misled as to its existence.

233. Mrs. Justice pleads that this misrepresentation constituted an unlawful exercise of authority, deliberately employed to compel her compliance, restrict her liberty, and prevent her from taking immediate action to facilitate Mr. Justice’s release.

234. S/Sgt. Desjourdy informed Mrs. Justice that he intended to come to the Justices’ home and take her into custody, a statement that caused her to fear for her safety. Concerned about the

potential for conflict, Mrs. Justice urgently contacted both the Professional Standards Unit and the executive branch of the Ottawa Police Service via phone and email, seeking immediate intervention.

235. In an email dated May 10, 2023, sent to Professional Standards Coordinator Megan Herasimenko, Supt. D'Aoust, and other senior officials, Mrs. Justice expressed grave concerns that S/Sgt. Desjourdy might mischaracterize her conduct and fabricate allegations of aggression as justification for the use of extreme force. She further requested safeguards against the risk of serious harm or threats to her safety posed by an officer exercising unchecked authority.

236. As a result of Mrs. Justice's urgent appeal, responsibility for executing her arrest was reassigned to off-duty officers Cst. Chase and Cst. Lee, effectively removing S/Sgt. Desjourdy from direct involvement in her apprehension.

237. In response, under circumstances giving rise to a strong inference of retaliation, S/Sgt. Desjourdy attempted to direct the off-duty officers and child protection worker, L.B., to place the Justices' daughter into protective custody, despite having no lawful basis or justification. He knew or ought to have known that arrangements had already been made for her care with Mrs. Justice's mother. This attempt was ultimately thwarted when Mrs. Justice's mother arrived as the directive was being issued. Upon assessing the situation, the off-duty officers and child protection worker refused to comply, affirming that there was no lawful or factual basis for removing the child from the family.

238. During the two hours preceding Mrs. Justice's transport to the police station, the off-duty officers toured the Justices' property and engaged in candid discussions with her regarding the

circumstances leading to her arrest, her role with CIG, and broader systemic failures within the justice system. They openly expressed concerns about S/Sgt. Desjourdy's conduct, characterizing his actions toward the Justices as improper and legally questionable. They also viewed Unlawful Intimidation, the widely circulated video, and remarked on the apparent breaches of professional and legal standards depicted therein. Additionally, they encouraged Mrs. Justice to pursue formal action against S/Sgt. Desjourdy, underscoring that accountability was fundamental to restoring public confidence in law enforcement.

239. The off-duty officers' conduct implicitly acknowledged that S/Sgt. Desjourdy's actions were highly irregular and legally questionable. Their refusal to execute the unwarranted child protection directive, their deliberate delay of Mrs. Justice's arrest and transport for two hours to engage in candid discussions and review Unlawful Intimidation, and their encouragement of Mrs. Justice's pursuit of redress collectively underscored a critical reality: even within the Ottawa Police Service, there was acknowledgment of the gravity and impropriety of S/Sgt. Desjourdy's conduct.

240. On or about May 10, 2023, S/Sgt. Desjourdy caused joint charges to be laid against the Justices under section 139(2) and section 368(1)(a) of the *Criminal Code*, along with a separate charge against Mr. Justice alone under section 131 of the *Criminal Code*. The specific charges were as follows:

*Perjury - [Mr. Justice]*

*Between the 2nd day of March in the year 2023 and the 3rd day of March in the year 2023 at the City of Ottawa in the East/De L'Est Region did, with intent to mislead, make before a person authorized by law to permit it to be made, namely G.L., a Notary Public, a false statement by affidavit which contained a false*

*medical note dated March 2, 2023, knowing the statement to be false, contrary to Section 131 of the Criminal Code of Canada.*

*Obstructing Justice - [Mr. Justice and Mrs. Justice]*

*Between the 2nd day of March in the year 2023 and the 3rd day of March in the year 2023 at the City of Ottawa in the East/De L'Est Region did intentionally attempt to obstruct, pervert, or defeat the course of justice by submitting an affidavit to The Ottawa Court, containing a false medical note dated March 2, 2023, contrary to Section 139, subsection (2) of the Criminal Code of Canada.*

*Use of Forged Document - [Mr. Justice and Mrs. Justice]*

*Between the 2nd day of March in the year 2023 and the 3rd day of March in the year 2023 at the City of Ottawa in the East/De L'Est Region did, knowing a document, namely an affidavit submitted to The Ottawa Court containing a false medical note dated March 2, 2023, to be forged, use, deal with or act on it as if it were genuine, contrary to Section 368, subsection (1)(a) of the Criminal Code of Canada.*

241. The Justices plead that these charges were entirely without merit, initiated in bad faith, and formed part of a broader pattern of targeted law enforcement and prosecutorial misconduct. In the alternative, they plead that even if reasonable and probable grounds existed to charge Mr. Justice, those same grounds were improperly and unlawfully extended to Mrs. Justice, further demonstrating that the charges against both were pursued in bad faith as part of a sustained and coordinated abuse of process. In any event, Mrs. Justice pleads that the charges against her were wholly unfounded, pursued in bad faith, and a direct extension of the improper and unlawful misuse of law enforcement and prosecutorial authority against both Justices.

242. Despite previously asserting his intent to proceed with a joint perjury charge against the Justices, S/Sgt. Desjourdy ultimately did not pursue the charge against Mrs. Justice. She pleads that this decision was driven by mounting pressure from individuals who became aware of her widely disseminated email—sent to thousands of key stakeholders in the justice system—exposing the fundamental implausibility of the allegation, as it was predicated on a sworn document that explicitly identified Mr. Justice as the sole deponent, rendering any charge against her legally untenable.

243. Upon their separate arrivals at the Ottawa Police Service Central Station following their arrests on May 10, 2023, both Justices personally observed officers involved in their arrests and processing explicitly advising station officers that, despite their arrest warrants being expressly endorsed for release, S/Sgt. Desjourdy had specifically directed that they be detained overnight for a bail hearing the following day. This directive, issued in direct contravention of the Court’s explicit order for their release, unlawfully circumvented judicial authority, resulting in their arbitrary and unlawful detention, thereby depriving them of their right to liberty absent any legal justification.

## **The Bail Hearings**

244. The conduct of S/Sgt. Desjourdy and the OCAO in relation to the Justices’ prosecutions came under significant scrutiny during their bail hearings. The proceedings exposed serious procedural irregularities that raised material concerns regarding the Crown’s motives and its adherence to procedural fairness. In an extraordinary and legally untenable submission, A.C.A.

Karimjee sought to revoke the Justices' release on all three bail grounds—primary, secondary, and tertiary—even though they had never been subject to bail conditions in the first instance.

245. The Justices plead that this approach constituted a fundamental and unjustifiable departure from established legal principles, violating procedural fairness and subverting the proper administration of justice.

246. The bail hearings were presided over by the Honourable Justice Daniel F. Moore (**"Justice Moore"**), of the Toronto region. Justice Moore conducted a detailed review of the Crown's submissions and identified multiple deficiencies. His Honour scrutinized A.C.A. Karimjee's argument for detention, raising concerns about whether the necessary legal foundation had been properly established. His Honour's analysis focused on whether the procedural safeguards governing pre-trial detention had been strictly observed.

247. During the bail hearing on May 11, 2023, A.C.A. Karimjee argued that the Justices should remain in custody based, in part, on an allegedly forged medical note. Justice Moore scrutinized the legal foundation for this position, inquiring: "You're seeking to detain them for filing a, a false medical letter?" Attempting to justify the Crown's position, A.C.A. Karimjee later stated:

... I think that the only thing that I would like to sort of explain about the primary grounds is that it's a unique sort of formulation of the primary grounds from the Crown's perspective and, and, and, and from the Crown's perspective, the primary grounds is not so much that they'll elope and, and, and, you know, bye, good-bye, but more in terms of not attending to the matter to its conclusion, like come up with, with false excuses, et cetera, et cetera.



248. On May 12, 2023, A.C.A. Savage replaced A.C.A. Karimjee as the assigned prosecutor, becoming the tenth Crown attorney assigned to the case. During the proceedings, A.C.A. Savage disputed the Justices' reported medical concerns from the previous day. The Justices informed the Court that a judicial order requiring their medical assessment at the Ottawa-Carleton Detention Centre had not been enforced. Consequently, Mr. Justice was denied access to his prescribed insulin, and Mrs. Justice was denied access to a breast pump, resulting in severe pain and medical complications due to her inability to breastfeed while incarcerated. In response, A.C.A. Savage stated: "So, I would just say that just for the record, the Crown is not accepting as truthful the claims made by [the Justices] today."

249. Justice Moore inquired into the Crown's position on detention, asking, "And it's, it's the Crown's position that they should be detained?" A.C.A. Savage responded, "Yes." Seeking further clarity, Justice Moore asked, "Both of them?" A.C.A. Savage confirmed, "Yes." Justice Moore then questioned whether this position aligned with the fact that Mrs. Justice had no prior criminal record and had initially been released on an undertaking, stating, "Even though [Mrs. Justice] has no criminal record and was put on the original release on an undertaking, and the Crown had offered non-custodial resolutions if restitution was paid on the original charges?"

250. The issue of financial security in relation to bail was then addressed. Justice Moore inquired whether the Justices had equity in their home that could satisfy any financial obligation with respect to bail, stating, "It appears that they do at least have some equity in the home that's still in their name that they could satisfy a financial obligation with respect to bail?"

251. In response, A.C.A. Savage invoked the allegation of fraud and money laundering, despite it having been withdrawn nearly two years prior to the bail hearings. He stated, “Yeah. The allegation is that money is fraudulently obtained, but, yes.”

252. Justice Moore observed that even if that allegation were assumed to be true, it did not account for the substantial value of the Justices’ property, stating, “Well, no, but it's—the, the nonpayment of rent for six months wouldn't amount to the \$200,000 down payment that they made. So it would appear there's substantial funds available for the financial obligation.”

253. Despite the existence of a court-ordered, 32-page medical report—provided to the Crown as disclosure—which set out objective clinical findings, conclusive diagnostic results, and an unequivocal medical assessment confirming that Mr. Justice had suffered a severe medical episode, A.C.A. Savage nonetheless asserted that detention was necessary, in part, on the premise that Mr. Justice had feigned illness to obstruct the proceedings, arguing:

So, I make submissions on why detention is necessary and again, what we have here, as I said before, is a concerted and sustained effort to avoid a trial on the merits. It is an available inference and, in fact, my submission is a strong inference that the sickness claimed by [Mr. Justice] is fake and not true and that it, it was used to derail the trial in January 2023.

254. A.C.A. Savage advanced additional submissions concerning the Justices’ conduct, explicitly referencing their allegations against prosecutors and characterizing them as having a “highly contentious attitude.” He continued, “The bail concern is that these disrespectful antics or strategies will continue. It's my submission, this Court should have no confidence that this won't continue if they are released—” before being interrupted by Justice Moore, who stated, “Well, being disrespectful is not a crime unless it's punished by—unless the Superior Court

chooses to punish them for contempt, which they certainly have that power, and they've restrained themselves to date.”

255. When A.C.A. Savage concluded the Crown’s submissions, Justice Moore indicated that the Court was prepared to grant bail without requiring submissions from the Justices. Before delivering his ruling, His Honour provided the Crown with an opportunity to reconsider its position on detention in light of concerns regarding procedural fairness. His Honour reiterated the principle that pre-trial detention is a measure of last resort, stating:

I mean look, I release people all the time that have committed numerous violent offences ... I mean, the release is by far the most common, and detention is reserved for those cases in which no other means can prevent the commission of further offences or interference with the administration of justice.

256. His Honour then sought confirmation from the Crown, asking, “They started at an undertaking and aren't they—shouldn't they be given some other step on the ladder before going to detention?”

257. Despite the Court’s clear indication that bail would be granted and its implicit suggestion that the Crown’s position was inconsistent with procedural fairness, A.C.A. Savage refused to reconsider his position, stating, “I've made my submissions on that, Your Honour. I don't think I have anything else to add.”

258. On May 12, 2023, after the Justices had spent three days in custody, Justice Moore ordered their release on bail—without requiring them to present any submissions in their defence—stating, “So [Mr. and Mrs. Justice], I am going to release you on a release order, without surety or deposit, but with a financial obligation in the amount of \$50,000 each.”

259. His Honour's ruling underscored the Crown's failure to establish any lawful or justifiable basis for detention. Moreover, the Court's observations throughout the bail hearings gave rise to a compelling inference that the Crown's position was inconsistent with the proper administration of justice and the principles of procedural fairness, and further raised serious concerns that its stance had been advanced for punitive or otherwise improper purposes.

260. Following the ruling, Justice Moore raised the issue of whether, given the history of interactions between S/Sgt. Desjourdy and the Justices, it would be appropriate to reassign the file to another officer. His Honour inquired, "I just wanted to—it hasn't been a pleasant relationship in the past. Would it make sense to have them contact someone else?"

261. Despite the Court's acknowledgment of past conflict, A.C.A. Savage objected to the request and refused to consent to reassigning the file to a different officer, even though the Justices agreed with the Court's suggestion. He stated, "I don't think we'd be making an order here for the Ottawa Police to assign a new officer. I don't think the Ottawa Police Service would accede to that request."

262. The Justices plead that, taken as a whole, the conduct of the police and Crown—including but not limited to:

- (a) obtaining Mr. Justice's private medical records without a warrant, court order, or any lawful justification, in direct contravention of established constitutional and statutory protections;

- (b) proceeding with charges despite Dr. A.S.'s explicit refusal to support or authorize any charges, thereby demonstrating a lack of objective investigative independence;
- (c) pursuing charges against Mrs. Justice despite clear and exculpatory evidence establishing her lack of involvement, thereby rendering the prosecution manifestly unreasonable;
- (d) engaging in the warrantless and unlawful seizure of Mr. Justice's mobile device without any legal justification or statutory authority, thereby constituting an unreasonable search and seizure contrary to constitutional guarantees;
- (e) deliberately omitting the endorsement pages from the Justices' first-instance warrants—which explicitly ordered their immediate release after a *Feeney* warrant had been applied for and denied—thereby materially altering the effect of judicial orders through deception;
- (f) falsely asserting that police were in possession of a *Feeney* warrant to coerce surrender, when in reality, the *Feeney* warrant application had been denied and no such warrant existed, thereby misleading Mrs. Justice and improperly interfering with due process;
- (g) directing officers to override the Court's explicit endorsement for the Justices' release and instead detaining them for a bail hearing, thereby unlawfully disregarding judicial authority; and

- (h) seeking punitive bail revocation without a proper legal basis, circumventing established bail principles, and thereby improperly weaponizing the process as a form of extrajudicial punishment—

gives rise to an inescapable inference that the prosecution was pursued in bad faith, for a punitive and improper purpose, and as part of a broader pattern of misconduct.

263. The Justices further plead that this conduct was deliberately intended to arbitrarily detain them, exert control over them, impede their ability to effectively represent themselves, and obstruct their ability to examine key witnesses under oath—including S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, and P.P. Oliveira—who were scheduled to testify less than two weeks after the bail hearings, on May 23, 2023.

264. The Justices further and additionally plead that this conduct was not only intended to shield the police and Crown from scrutiny arising from prior misconduct but also to suppress the continued exposure of the widely circulated video Unlawful Intimidation, which had amassed 6.8 million views and remained under their direct control. They further plead that the timing and nature of their arrest and detention—occurring while the video continued to gain widespread public traction—give rise to a compelling inference that the police and Crown sought to neutralize their ability to further amplify, manage, or disseminate the content. This conduct, they plead, constituted a retaliatory and unlawful abuse of state power, employing incarceration as a means of extrajudicial punishment, coercive intimidation, and retribution for their continued exposure of institutional misconduct.

## **The Second *Charter* Challenge and Crown Admissions**

265. Following the adjournment of previously scheduled hearing dates, the Justices each argued separate *Charter* applications on July 4, 5, and 7, 2023, alleging breaches of their right to be tried within a reasonable time under Section 11(b). The prosecution was reassigned to A.C.A. Rodgers, and the Honourable Justice Marc R. Labrosse (“**Justice Labrosse**”) was assigned as the presiding trial judge.

266. The preparation of the Section 11(b) *Charter* applications imposed an overwhelming and unsustainable burden on Mr. Justice, necessitating sustained legal research, the drafting of complex filings, and the articulation of intricate constitutional arguments—all under relentless pressure, while self-represented, and without meaningful respite. This burden was further compounded by the adverse effects of his three-day incarceration, which materially compromised his health and directly disrupted CEPC’s operations.

267. During this period, Mr. Justice’s mobile device—serving as the exclusive security key to CEPC’s operational infrastructure—was unlawfully seized. In addition to causing ongoing and substantial financial and operational harm, the seizure directly impaired his ability to advance *Charter* litigation. His section 11(b) application, stored on the device and nearing completion, was rendered inaccessible and had to be reconstructed from memory, resulting in further delay, procedural prejudice, and significant personal strain.

268. On or about June 5, 2023, the cumulative effects of prolonged stress and physical exhaustion culminated in an incident in which Mr. Justice, while seated upright and engaged in the preparation of his section 11(b) *Charter* application, involuntarily fell asleep. Upon abruptly

awakening, he was startled, lost his balance, and fell from his chair, sustaining an injury later diagnosed as a fracture to his right, dominant wrist.

269. Having previously been subjected to heightened security measures and questioning at the hospital in connection with perceived personal security risks—an experience that gave rise to a well-founded apprehension for his safety in both medical settings and public spaces—Mr. Justice elected not to seek immediate medical attention. It was not until March 2025 that an X-ray revealed evidence of prior trauma to his right wrist, for which no earlier medical documentation existed.

270. The untreated fracture resulted in prolonged and debilitating pain, as well as significant physical limitations, compelling Mr. Justice to rely on his non-dominant hand for essential tasks while preparing complex legal submissions under extreme duress. He continues to suffer from functional impairment and chronic discomfort, and is anticipated to require additional medical intervention, including diagnostic imaging, rehabilitative therapy, and potentially surgical repair.

271. Mr. Justice pleads that his injury was a direct and reasonably foreseeable consequence of the extraordinary and coercive demands imposed upon him in the course of advancing a constitutional challenge to what he alleges was an unjust and unlawful prosecution—a challenge rendered uniquely burdensome by his status as a self-represented litigant, requiring him to independently acquire, interpret, and apply complex legal principles without the assistance of legal counsel. He further pleads that the psychological distress arising from the broader pattern of law enforcement and prosecutorial misconduct—when considered in conjunction with ongoing procedural irregularities and personal security concerns identified by hospital



staff—was a substantial and operative cause of his decision to forgo timely medical treatment for a serious and debilitating physical injury.

272. On July 6, 2023, Mr. Justice was approached by E.B., a representative of K.S.V.A., the court-appointed firm designated to administer the sale of P.E.O.—a longstanding competitor of CEPC—pursuant to court-supervised insolvency proceedings under the authority of the relevant receivership order. By order of the Superior Court of Justice dated June 8, 2023, K.S.V.A. had been formally appointed as interim receiver pursuant to section 243 of the *Bankruptcy and Insolvency Act* R.S.C., 1985, c. B-3. By a subsequent order dated July 4, 2023, the court authorized the commencement of a sale process following P.E.O.’s placement into receivership.

273. Mr. Justice was recognized by the court-appointed receiver as a qualified and credible prospective purchaser and, following preliminary discussions with E.B., formally commenced due diligence with the intention of submitting an acquisition offer. Despite sustained and bona fide efforts to advance the process, Mr. Justice was ultimately unable to secure lender financing within the court-prescribed timeline, resulting in P.E.O.’s assignment into bankruptcy on September 28, 2023. No other purchaser submitted an accepted offer, and, as of that date, no other entity possessed the requisite operational infrastructure, regulatory licencing, or industry-specific expertise necessary to assume control of P.E.O.’s portfolio of natural gas and electricity supply contracts and to integrate them effectively into an existing commercial platform.

274. The Justices plead that, but for the unlawful and unjustified continuation of criminal proceedings against Mr. Justice, he would have had the requisite time, resources, and strategic flexibility to secure financing for CEPC’s acquisition of P.E.O. As a direct, foreseeable, and

proximate consequence, CEPC was deprived of a substantial and irreplaceable business opportunity. The Justices further plead that this demonstrable and quantifiable economic loss was the result of the state's wrongful conduct and constituted an unlawful and unjustified interference with Mr. Justice's right to engage in lawful commercial enterprise.

275. As part of their section 11(b) *Charter* applications, the Justices were required to obtain official court transcripts from all prior proceedings. To ensure accuracy and reliability, they retained V.T.R.S., a highly respected and long-established transcription and court reporting firm with decades of professional experience. However, the process took a concerning turn when V.T.R.S. staff reported that Justice Gomery had issued directives mandating extensive and substantive revisions to the transcripts, including the removal of critical portions of the record.

276. The Justices plead that these directives—if implemented as reported—would have resulted in the improper alteration of the official judicial record, thereby undermining procedural fairness and giving rise to serious concerns regarding the integrity of the administration of justice.

277. Troubled by these directives, on May 14, 2023, K.F., the owner of V.T.R.S., contacted Mrs. Justice to convey her concern. She stated: “Many of us are deeply uncomfortable with the revisions Justice Gomery is directing us to make. It has profoundly unsettled my team, and we are genuinely concerned about your case. We would readily respond to any questions under subpoena. This situation is unlike anything we have ever encountered.”

278. On June 2, 2023, J.C., Appeals and Project Manager for V.T.R.S., also contacted Mrs. Justice to underscore the gravity of the situation, stating as follows: “Justice Gomery has directed

us to revise content that is unrelated to grammar or spelling. In all our years of professional experience in this field, we have never encountered anything of this nature, nor have we ever been instructed to make alterations of this kind. We are being directed to remove entire sections of material from the record—content which, in our professional judgment, raises serious and legitimate concerns. What we are being asked to do is, at a minimum, ethically questionable and may well be unlawful.”

279. The Justices plead that these reports—when considered in conjunction with the personal security concerns previously raised by hospital staff—give rise to a reasonable apprehension that Mr. Justice’s safety within the courthouse on January 17, 2023, may have been compromised by conduct that was deliberate, reckless, or otherwise incompatible with the proper administration of justice. The Justices further plead that, insofar as Justice Gomery was aware of these concerns, Her Honour was under a legal and ethical obligation to address them through appropriate judicial channels. They further plead that any material alteration of the court record under such circumstances gives rise to serious and legitimate concerns regarding the preservation of judicial impartiality, institutional accountability, and the foundational principles of fundamental justice.

280. On or about May 23, 2023, A.C.A. Rodgers brought a motion to quash the subpoenas issued to A.C.A. Farrell and P.P. Oliveira. However, on June 20, 2023, in an effort to obviate the need for further judicial scrutiny, A.C.A. Rodgers expressly agreed to place on the record the essential facts the Justices intended to establish through P.P. Oliveira’s testimony, in exchange for the withdrawal of his subpoena. In doing so, he unequivocally acknowledged that no substantive distinction existed between the POA proceeding initiated by Det. White and the criminal

prosecution initiated by S/Sgt. Desjourdy. This concession was formally entered on the record as follows:

... we're not contesting that there's this overlap between the *POA* charge and the criminal charges that are on the indictment. ... from what I can tell from Mr. Oliveira's evidence, that seems to be what [Mr. and Mrs. Justice] want from him—that the contents of the *POA* charges rely on the same witnesses, it's the same body of evidence, and that's not something I'm disputing.

281. The Justices plead that this admission gives rise to a compelling inference that prosecutors from the OCAO, at all material times prior, knowingly maintained a legally unfounded distinction between the two proceedings as part of a sustained and deliberate abuse of process. The Justices further plead that this artificial separation was intentionally preserved for the improper purpose of obstructing their ability to mount a full and fair defence, misleading the Court, and manufacturing a pretext to justify the continuation of a prosecution lacking any lawful foundation.

282. In his final submissions on July 7, 2023, in relation to the Justices' section 11(b) *Charter* applications, A.C.A. Rodgers advanced a preemptive abuse of process defence under section 7 of the *Charter*—an issue that had not been raised by the Justices, had not been properly placed before the Court, and therefore fell outside the permissible scope of the proceedings.

283. The Justices plead that this submission was procedurally improper, speculative in nature, and advanced without any legal foundation. They further plead that, by introducing a section 7 argument in the absence of formal notice or application, A.C.A. Rodgers improperly broadened the scope of the proceedings and created a misleading impression concerning the legal and factual basis upon which the charges had been initiated. They also plead that the argument was

calculated to insulate state actors from scrutiny and to reframe the prosecution's theory of the case in a manner that concealed material facts. The Justices plead that the following statements exemplify how the prosecution advanced a position that was misleading and incompatible with its duty to proceed with fairness, objectivity, and candour in all proceedings:

In terms of, like, an abuse of process, like, I would have called evidence if this was before the Court about why the criminal charges were laid when they were, but what Your Honour can at least remember is there were these three charges, right? So there was a fraud over, there was a laundering proceeds of crime, and there was a possess stolen property of crime, right?

... And as well, there's a laundering charge, so there would have to be evidence about how this stolen money we say is cleaned or laundered, and evidence enough to give the police reasonable and probable grounds. And again, that's not in the disclosure package either.

I don't know if it's the court's role to scrutinize the police laying charges when they do. Again, absent an allegation of misfeasance or abuse of process, and, and we don't have that here, but I will just say that it's not as if the police just decided to lay criminal charges for some—I'm struggling on the word here, but some—I'm sorry, negligent reason I guess could be a word.

These investigations take time. Evidence comes out when it does and, you know, if it was before the Court, we would have led evidence on that. And it's not. And so at the end of the day, we say section 7 is not engaged.

284. The Justices plead that A.C.A. Rodgers' statements give rise to an inescapable inference that, at all material times, the OCAO was aware of its inability to substantiate reasonable and probable grounds for the initial criminal charges—charges that had, in fact, been abandoned nearly two years earlier. The Justices further plead that by asserting the existence of reasonable and probable grounds while simultaneously withholding disclosure and evidentiary

substantiation, the Crown breached its constitutional disclosure obligations and contravened the principles of fundamental justice.

285. The Crown's continued refusal to disclose this information deprived the Justices of a meaningful opportunity to challenge the lawfulness of the charges and to assess whether the exercise of prosecutorial discretion was properly grounded in legal principle and supported by a sufficient evidentiary foundation. This omission further impaired the Court's ability to exercise effective judicial oversight as to whether the initial charges had been laid in good faith, and gave rise to an elevated need for rigorous scrutiny of the remaining charges then pending before the Court.

286. The Justices plead that no such evidence could have existed, as the laundering charge was legally and factually untenable from the outset. They further plead that A.C.A. Rodgers' statements gave rise to a materially misleading representation that additional inculpatory evidence existed to support the initial charges, despite the Crown's failure to disclose any such material. The Justices also plead that this misrepresentation compounded pre-existing deficiencies in the prosecution's case, further undermining its legitimacy and reinforcing the inference that the proceedings were instituted and maintained without any lawful foundation.

287. By the time of A.C.A. Rodgers' final submission, the only charges remaining before the Court—obstructing justice and use of a forged document—had arisen from a subsequent charging decision made by D.C.A. Holmes, in collaboration with S/Sgt. Desjourdy, following the stay of the initial charges. Nevertheless, A.C.A. Rodgers omitted any reference to these charges from the Crown's preemptive abuse of process defence, thereby failing to address the actual foundation of the prosecution then before the Court.

288. By framing his submissions around charges that had been abandoned and no longer bore legal relevance—rather than addressing the subsequent charging decision that formed the foundation of the prosecution then before the Court—A.C.A. Rodgers diverted judicial attention away from the procedural irregularities that fundamentally underpinned the remaining charges. This omission materially compromised the Court’s capacity to evaluate whether the continuation of the prosecution warranted scrutiny within the established framework governing abuse of process.

289. The Justices plead that, by omitting any reference to the subsequent charging decision—the only decision directly bearing on the prosecution then before the Court—A.C.A. Rodgers materially misrepresented the procedural history of the case, thereby impairing the Court’s ability to meaningfully assess the legitimacy of the proceedings and properly discharge its oversight function in accordance with established legal principles.

290. The Justices’ section 11(b) *Charter* applications asserted that, in light of the Crown’s express concession that the proceedings initiated by Det. White and those subsequently commenced by S/Sgt. Desjourdy were factually and evidentiary indistinguishable, the period of delay ought properly to be calculated from May 28, 2019—the date on which Det. White first elected to proceed against Mr. Justice—rather than from January 2021, when S/Sgt. Desjourdy formally laid criminal charges. Mrs. Justice separately submitted that pre-charge delay was applicable in her case, while Mr. Justice advanced that the Provincial Offences Court proceeding and the subsequent criminal prosecution formed a single, uninterrupted continuum of state conduct, giving rise to one continuous period of delay.

291. In His Honour's ruling, Justice Labrosse agreed with the Justices and held that the period of delay applicable to both Mr. and Mrs. Justice should be calculated as commencing on May 28, 2019—the date on which Det. White initiated proceedings against Mr. Justice—even though Mrs. Justice was not formally charged until January 2021, nearly two years later, by S/Sgt. Desjourdy. However, in an outcome that ultimately defeated the Justices' section 11(b) claims, Justice Labrosse concurrently accepted the Crown's reliance on an evolving body of jurisprudence recognizing delays arising from the COVID-19 pandemic as discrete exceptional circumstances within the meaning of the *Jordan* framework. Invoking that jurisprudence—together with deductions for delay attributed to Mr. Justice's illness—A.C.A. Rodgers ultimately persuaded the Court that the total delay should be reduced from 1,571 days to 857 days, thereby narrowly avoiding the 912-day ceiling for a presumptive stay under section 11(b).

292. Justice Labrosse's ruling further acknowledged that the Supreme Court of Canada has articulated a binding legal framework permitting circumstances such as those faced by the Justices to be challenged as an abuse of process under sections 7 and 11(d) of the *Charter*—an argument that, at that stage of the proceedings, had not yet been formally advanced. Upon receiving the written ruling on August 10, 2023—less than one month before the scheduled retrial on September 5, 2023—the Justices promptly declared their intention to bring an abuse of process application. Acting with diligence and urgency, they delivered formal notice on August 22, 2023, to both the OCAO and A.C.A. Savage—who had assumed carriage of the retrial following A.C.A. Rodgers' withdrawal at the conclusion of the *Charter* litigation—advising of their intent to bring the application prior to the retrial's commencement.



## **The Third *Charter* Challenge**

293. On the morning their retrial was scheduled to commence—September 5, 2023—the Justices filed an abuse of process application pursuant to sections 7 and 11(d) of the *Charter*, together with a motion to adjourn the retrial. A.C.A. Savage opposed the adjournment, submitting that the retrial ought to proceed as scheduled and that the application should not take precedence. The Court convened a series of trial management appearances to address procedural sequencing, with arguments heard on September 11 and 15, 2023. On September 20, 2023, Justice Labrosse ruled that the abuse of process application must be adjudicated in advance of the retrial, finding that its determination was necessary to preserve the integrity of the proceedings and safeguard the broader interests of justice. Consequently, the retrial was adjourned pending the Court’s ruling on the application.

294. Between September 2023 and May 2024, over the course of sixteen case management appearances, the Justices and A.C.A. Savage engaged in sustained procedural coordination with the Court to finalize the framework governing the scheduled hearing of the abuse of process application, set to proceed from August 26 to 30, 2024. As a result of these proceedings, the Court formally endorsed the following hearing structure:

- (a) the allocation of twenty-five (25) hours of court time for the hearing of the application;
- (b) a structured division of that time, apportioning seventeen and a half (17.5) hours to the Justices for the presentation of their case, and seven and a half (7.5) hours to the Crown for its response; and

- (c) the scheduled examination of up to sixteen (16) defence witnesses, including, but not limited to, S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, Dr. C.G., Dr. A.S., and an expert in police investigative procedures.

295. The Justices plead that their abuse of process application was brought to adjudicate core factual and legal issues central to this action—issues which, owing to the termination of the criminal proceedings prior to any determination on the merits, remain unresolved. They further plead that the outcome of that application would have constituted a material and determinative factor in their decision to pursue damages against the Defendants named herein, as it would have yielded judicial findings directly relevant and material to the claims now advanced.

296. As reflected in the application record and corresponding court transcripts, the abuse of process application was brought to establish, among other matters:

- (a) that the conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman fell below the standard of care required of law enforcement officers in the lawful execution of investigations, detentions, and arrests, as mandated by their statutory duties and the governing principles of constitutional law;
- (b) that the investigative measures undertaken by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman were materially deficient, carried out negligently and in bad faith, and were thus incapable of sustaining any lawful claim of reasonable mistake or due diligence in the discharge of their statutory and constitutional duties;

- (c) that Cst. Tessier and Cst. Nizman, acting under the direction and supervision of S/Sgt. Desjourdy, unlawfully detained Mr. Justice in his vehicle and thereafter effected a warrantless arrest in contravention of section 495 of the *Criminal Code*, in the absence of reasonable grounds or exigent circumstances capable of lawfully justifying either the detention or the arrest;
- (d) that the Crown's acknowledged decision to re-prosecute the same factual allegations and evidentiary record—previously advanced before the Provincial Offences Court—under the *Criminal Code* contravened principles of procedural fairness and due process, constituted an abuse of process, and violated the principles of fundamental justice through the impermissible duplication of proceedings; and
- (e) that the criminal charges were initiated and pursued absent reasonable and probable grounds, and were motivated by improper, extraneous, and abusive law enforcement and prosecutorial considerations, thereby infringing the Justices' rights under the *Charter*.

297. On or about November 17, 2023, subpoenas were served on S/Sgt. Desjourdy and Det. White, compelling their testimony concerning their respective investigative conduct, including S/Sgt. Desjourdy's role in directing Cst. Tessier and Cst. Nizman to detain and arrest Mr. Justice without a warrant or judicial authorization. Subpoenas were likewise served on Cst. Tessier and Cst. Nizman, requiring their testimony concerning their direct involvement in Mr. Justice's detention and warrantless arrest on January 25, 2021. In addition, Cst. Tessier was required to

testify regarding his efforts to locate the Justices, undertaken at the direction of S/Sgt. Desjourdy in the course of the underlying investigation.

298. On May 6, 2024, in advance of the scheduled abuse of process hearing, Justice Labrosse directed the Crown to confirm whether the Ottawa Police Service objected to the anticipated testimony of S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, or whether it intended to bring a motion to quash any of the subpoenas. Each of the four officers had previously been subpoenaed in multiple *Charter* proceedings dating back to December 2022; however, none had ever been called to give evidence. On May 7, 2024, A.C.A. Savage advised the Court that the Ottawa Police Service raised no objection to their testimony or to the enforcement of the subpoenas.

299. The Justices plead that the Ottawa Police Service's decision not to bring a motion to quash the subpoenas—despite having been afforded a clear and timely opportunity to do so—gives rise to a logical inference that the subpoenaed officers possess information directly relevant to the alleged breaches of the Justices' *Charter* rights.

300. During the courthouse appearances in December 2022 and May 2023—at which the subpoenaed officers, including Cst. Tessier, were present—Mr. Justice engaged in brief and civil discussions with Cst. Tessier in the public hallway. During one such exchange, Cst. Tessier voluntarily disclosed that he had been transferred to a different department following the incident in which Mr. Justice had been detained in the parking lot.

301. While observing Cst. Tessier in the hallway, Mr. Justice noted that he was closely accompanied by another uniformed officer who remained at his side throughout the courthouse

appearances. The arrangement bore the distinct characteristics of a police handler, consistent with Mr. Justice's experience observing escort protocols involving officers linked to sensitive or high-profile matters. Mr. Justice reasonably inferred that the presence of the accompanying officer was connected to the Justices' case, particularly in light of Cst. Tessier's subpoena and recent departmental transfer following the parking lot detention incident.

302. Mr. Justice also observed Cst. Tessier engaged in an informal hallway conversation with A.C.A. Ramsay. Cst. Tessier spoke candidly and audibly about the Justices' case, including remarks about the internal response within the Ottawa Police Service. Mr. Justice overheard Cst. Tessier state that S/Sgt. Desjourdy had initially considered the matter to be a "good file," but that this perception shifted significantly after the Justices publicly raised allegations of police misconduct.

303. While motioning with his head and directing his body language toward Mr. Justice, Cst. Tessier stated in a serious and concerned tone that "the police need damage control." Based on the content, tone, and accompanying non-verbal cues, Mr. Justice reasonably understood the remark to reflect an internal effort within the Ottawa Police Service to manage reputational fallout and shape its institutional response to the Justices' allegations of misconduct.

304. These observations and statements give rise to a compelling inference that Cst. Tessier knew or ought reasonably to have known that the criminal proceedings lacked reasonable and probable grounds and were being pursued, in whole or in part, for an improper or collateral purpose inconsistent with the proper administration of justice. His conduct, proximity, and disclosures during this period indicate that he possesses material information directly relevant to the alleged breaches of the Justices' *Charter* rights.

305. The abuse of process application also advanced evidence that medical professionals who treated Mr. Justice in the emergency department on January 17, 18, and 19, 2023, documented clinical concerns indicating that individuals involved in the prosecution may have endangered his health, either deliberately or through reckless disregard—concerns that Mr. Justice reasonably perceived as constituting a direct and credible threat to his well-being. On or about January 11, 2024, Dr. C.G. was served with a subpoena compelling her to provide sworn testimony concerning her medical observations, clinical findings, and the results of diagnostic testing conducted during Mr. Justice’s hospital admission.

306. Additionally, the abuse of process application advanced evidence substantiating concerns raised by V.T.R.S. that judicially directed transcript revisions constituted procedural irregularities bearing directly on the accuracy and integrity of the official court record. If ultimately established, such irregularities could materially compromise the fairness of related proceedings and diminish public confidence in the administration of justice. On or about November 29, 2023, K.F., the owner of V.T.R.S., was served with a subpoena compelling her attendance to provide sworn testimony concerning V.T.R.S.’s documented observations and concerns arising from the judicially directed revisions.

307. On April 22, 2024, the Justices received an email from an unidentified source containing a link to an audio recording that appeared to capture Justice Gomery’s oral ruling delivered on January 30, 2023, in which Her Honour declared a mistrial. Upon comparing the recording to the official transcript, the Justices identified a material discrepancy. Specifically, Justice Gomery’s original statement—“Whatever my views about the affidavit that [Mr. Justice] has presented, we are still in the middle of a health crisis”—had been transcribed as “COVID crisis.” This

substitution materially altered the contextual meaning of the Court’s remarks—particularly in light of the surrounding reference to Mr. Justice’s prolonged illness and Her Honour’s stated concern as to whether the Court could maintain the appearance of fairness—thereby raising serious concerns as to whether the transcript accurately reflected the official judicial record.

308. On May 6, 2024, the Justices introduced the audio recording into the court record and formally requested the issuance of a subpoena for Justice Gomery, submitting that the identified discrepancy—particularly in light of the anticipated testimony of K.F.—warranted further judicial inquiry. They argued that the alteration appeared to amount to a substantive modification of the record, inconsistent with the substance of Her Honour’s original oral ruling. Justice Labrosse directed that the authenticity of the recording be examined as part of the ongoing proceedings and, upon independently confirming the discrepancy, reserved determination as to whether a subpoena for Justice Gomery would issue.

309. On May 7, 2024, Justice Labrosse invited the Justices to submit a proposed allocation of the twenty-five (25) hours of scheduled court time for the hearing of the abuse of process application. On May 9, 2024, the Justices filed their proposal, which allocated time for the examination of sixteen (16) anticipated witnesses—including Justice Gomery, whose testimony was expected to address the identified transcript discrepancy. On May 14, 2024, both Justice Labrosse and the Crown acknowledged receipt of the proposal and expressly confirmed that they did not object to any aspect of the proposed time allocations.

310. The Justices plead that the Court’s confirmation of a discrepancy between the original phrase, “health crisis,” and the transcribed phrase, “COVID crisis,” constitutes a material inconsistency indicative of a retrospective effort to reframe the stated basis for the mistrial on

grounds unrelated to Mr. Justice's medical condition. They further plead that, to the extent the revision was effected pursuant to a directive, it gives rise to serious legal and procedural concerns as to whether Mr. Justice's health and fair trial rights were improperly disregarded—whether through intent, recklessness, or negligence—during the proceedings of January 17, 2023. Accordingly, they plead that the matter warrants judicial scrutiny.

### **The Recusal Motion**

311. On May 6 and 7, 2024, the Justices argued a motion seeking the recusal of A.C.A. Savage and all prior prosecutors from the OCAO, asserting that their continued involvement gave rise to a reasonable apprehension of bias, as well as actual and perceived conflicts of interest. They submitted that, to preserve the fairness and integrity of the proceedings, prosecutorial impartiality necessitated the appointment of an independent Crown prosecutor from outside the Ottawa region.

312. The Justices submitted that the abuse of process application—already scheduled for hearing in August 2024—would directly scrutinize the prosecutorial conduct of the OCAO over the preceding three and a half years, during which the case had been handled by no fewer than ten Crown prosecutors from within that same office. They argued that permitting the OCAO to retain carriage of an application in which its own conduct was subject to judicial review would give rise to an appearance of institutional bias, compromise the fairness of the proceedings, and diminish public confidence in the administration of justice. They further maintained that any adjudication rendered under such circumstances would be procedurally untenable.



313. The Justices further contended that the OCAO's unprecedented pattern of prosecutorial reassignments reinforced a reasonable apprehension of institutional self-interest, as it reflected an effort to shield individual prosecutors from scrutiny while preserving systemic control over the case. They argued that any objective observer would reasonably question the OCAO's ability to impartially assess allegations concerning its own conduct, and that the appointment of an independent Crown prosecutor from outside the region was therefore essential to restore public confidence in the integrity of the proceedings.

314. Relying on binding jurisprudence, the Justices invoked well-established legal principles affirming that prosecutorial independence is fundamental to the integrity of the justice system and must be safeguarded from even the appearance of improper influence. They submitted that where a prosecutorial office holds a direct or institutional interest in the outcome of legal proceedings—particularly where those proceedings call into question the office's own conduct—recusal is not merely advisable but legally required to protect procedural fairness, ensure impartiality, and preserve public confidence in the administration of justice and the rule of law.

315. The Justices further submitted that the risk of a miscarriage of justice was particularly acute, given the potential consequences of an unsuccessful abuse of process application. They argued that, if the application were dismissed and the matter proceeded to retrial, any resulting conviction would be vulnerable to appellate intervention on the basis that the prosecution had been conducted by a Crown attorney whose impartiality was reasonably in doubt. Such circumstances, they contended, would invite heightened appellate scrutiny, undermine judicial economy, and imperil the finality of the proceedings.

316. At the conclusion of argument, Justice Labrosse reserved decision, advising that a written ruling would be delivered within approximately two months, with a tentative release expected by the end of June 2024.

317. The Justices plead that, in light of the strength of their submissions and the compelling legal and factual foundation underlying their recusal motion, A.C.A. Savage and the OCAO prosecutors knew or ought to have known that they could no longer properly sustain carriage of the prosecution. The Justices further plead that the OCAO prosecutors knew or ought to have known that reassignment to an independent Crown would necessitate an impartial reassessment of the evidentiary record—one that would inevitably disclose the case’s foundational deficiencies and render its continuation legally indefensible.

### **The Proceedings Are Terminated**

318. Following the recusal motion hearings, the Crown directed a stay of proceedings on all outstanding criminal charges. On May 22, 2024—two weeks after the conclusion of those hearings and prior to the issuance of any ruling by Justice Labrosse—A.C.A. Savage formally confirmed that the Crown had elected to discontinue the remaining prosecutions.

319. On May 22, 2024, the Crown directed a stay of proceedings in respect of the charges of perjury, obstructing justice, and use of a forged document, which had been laid in 2023 in connection with allegations involving a forged medical note. Six days later, on May 28, 2024, the Crown likewise directed a stay of proceedings in respect of the charges of obstructing justice and

use of a forged document, which had been laid in 2021 in relation to the Second Criminal Information.

320. A.C.A. Savage identified multiple factors underlying the Crown's decision to terminate the prosecutions, including:

- (a) the OCAO's escalating concern arising from the Justices' stated intention to commence legal proceedings against the Crown;
- (b) the determination that continued prosecution no longer served the public interest; and
- (c) the need to reallocate prosecutorial resources to matters of greater severity or urgency.

321. The Justices plead that the OCAO's decision to stay the charges—only after the recusal motion had been fully argued and judicial determination reserved, and notwithstanding extensive preparations for a complex, high-stakes abuse of process application—gives rise to an inescapable inference that the stay was, at least in part, a strategic manoeuvre calculated to preempt an adverse ruling and to foreclose independent judicial scrutiny.

322. Had the recusal motion been granted, thereby necessitating the reassignment of the file to an independent Crown prosecutor from outside the Ottawa region, the Justices plead that such a reassessment would have inevitably disclosed:

- (a) the unjustified continuation of prosecutions in the absence of reasonable and probable grounds;
- (b) the systemic and unwarranted expenditure of public resources on proceedings devoid of any legal or factual foundation; and
- (c) a broader pattern of misconduct permeating both the investigative and prosecutorial handling of the case.

323. The Justices further plead that the abrupt termination of the proceedings—following years of protracted litigation, in anticipation of meticulously coordinated abuse of process hearings, and immediately prior to a pending judicial determination on recusal—gives rise to an inescapable inference that the prosecution was knowingly maintained in the absence of reasonable and probable grounds, and was pursued for an extraneous and improper purpose: namely, to forestall its inevitable termination in their favour.

324. At the conclusion of the case on May 28, 2024, Justice Labrosse made an unsolicited statement expressly acknowledging the exceptional legal proficiency the Justices had exhibited throughout the litigation. His Honour remarked: “I don’t hesitate in saying that if either of you intend on making an application to law school in the next little while, I’m sure Mr. Savage and I would be good references for your law school applications, because you’ve worked very hard in self-representing yourselves.”

325. The Justices plead that this rare and unequivocal judicial acknowledgment underscores both the exceptional complexity and gravity of the legal proceedings they were compelled to endure. They further plead that the Court’s express recognition gives rise to a compelling

inference that they were required to develop advanced legal proficiency as a direct consequence of the extraordinary demands imposed by the prosecution—thereby further evidencing the punitive, burdensome, and unjust nature of the proceedings.

326. The Justices further and additionally plead that the litigation not only demanded years of sustained and exhaustive legal effort, but also fundamentally disrupted the course of their lives, compelling them—under conditions of extraordinary duress—to master complex areas of law while acting as self-represented litigants. They further plead that their acquisition of advanced legal competencies—undertaken not by choice, but out of necessity to defend against an improperly prolonged prosecution—constitutes further compelling evidence of the unwarranted, punitive, and oppressive nature of the proceedings maintained against them.

## **V. CAUSES OF ACTION AND LIABILITY OF DEFENDANTS**

### **Negligent Investigation**

327. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman engaged in negligent investigation.

### **Duty of Care**

328. S/Sgt. Desjourdy, Det. White, and Cst. Tessier owed a duty of care to the Plaintiffs when engaging in the active investigation of alleged criminal and quasi-criminal offenses against them. Cst. Nizman owed a duty of care to Mr. Justice when engaging in the active investigation of alleged criminal and quasi-criminal offenses against him.

### Standard of Care

329. The standard of care required that S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman carry out their investigative duties as a reasonable and competent police officer would in similar circumstances. This includes, but is not limited to:

- (a) conducting an investigation fairly, objectively, and without bias;
- (b) ensuring that reasonable and probable grounds exist before laying charges;
- (c) considering both inculpatory and exculpatory evidence in a neutral manner;
- (d) following proper procedures for interviewing witnesses and collecting evidence;
- (e) avoiding tunnel vision, bias, or acting on improper motives; and
- (f) ensuring that investigative steps are based on lawful authority and reasonable discretion.

### Breach of the Standard of Care

330. S/Sgt. Desjourdy breached the standard of care in the course of his participation in the active investigation of alleged criminal and quasi-criminal offenses against the Plaintiffs, including but not limited to:

- (a) failing to assess evidence objectively, disregarding material inconsistencies, and adopting a biased, one-sided approach that lacked investigative integrity;

- (b) knowingly misrepresenting, altering, or distorting evidence to justify criminal charges;
- (c) proceeding with criminal charges despite the absence of reasonable and probable grounds or credible evidence, including disregarding proper police discretion and investigative standards;
- (d) using the investigative process for an improper purpose, including harassment, intimidation, or retaliation through police investigative powers that had no legitimate law enforcement purpose;
- (e) neglecting to verify key facts before concluding the investigation, including failing to ensure investigative steps complied with proper police protocols for assessing evidence sufficiency;
- (f) exerting improper influence over subordinate officers to ensure a pre-determined outcome, rather than allowing a fair and impartial investigation to take place;
- (g) misusing his supervisory position to encourage or approve unlawful investigative actions taken by officers under his command;
- (h) overseeing or approving the suppression of exculpatory evidence or complaints by the Plaintiffs regarding investigative misconduct, violating the duty to ensure fairness, transparency, and full disclosure;

- (i) knowingly proceeding with criminal charges despite personal bias, animus, and clear indications that the legal threshold for charges was not met;
- (j) disregarding proper internal police procedures and oversight mechanisms to push forward an investigation that lacked any lawful foundation;
- (k) failing to prevent, correct, or intervene in known errors or unlawful investigative conduct by officers under his command, despite having direct knowledge and a supervisory duty to ensure professional and legal standards were upheld;
- (l) engaging in selective enforcement by deliberately pursuing baseless charges against the Plaintiffs while disregarding alternative investigative avenues that would have demonstrated their innocence;
- (m) mischaracterizing facts in official police reports or investigative summaries to create a misleading narrative that justified unlawful charges;
- (n) allowing or encouraging reliance on unreliable witnesses or evidence while ignoring established investigative standards for verifying credibility;
- (o) failing to consult or seek legal guidance on the sufficiency of evidence before laying charges, despite clear warning signs that the case lacked merit;
- (p) conspiring with other officers to ensure that the Plaintiffs were charged and prosecuted despite the absence of lawful grounds;



- (q) directing a subordinate officer to obtain a production order for Scotiabank to unlawfully replicate evidence from an existing prosecution for the purpose of initiating parallel proceedings, and to obtain a production order for the Bank of Montreal based on a factual impossibility, thereby misleading the court and abusing judicial authorization processes;
- (r) using his position as a senior officer to shield or cover up investigative misconduct committed by officers under his command;
- (s) endorsing or authorizing the continued pursuit of criminal charges despite procedural irregularities, improper investigative motives, or known deficiencies in the case;
- (t) failing to conduct a post-investigation review or reassessment of the decision to lay charges, despite clear evidence that the charges were unfounded;
- (u) failing to document key investigative steps, leading to an incomplete or misleading record of events;
- (v) knowingly allowing officers under his command to deviate from standard investigative procedures without justification;
- (w) failing to ensure that investigative timelines and procedural safeguards were followed, leading to undue delays or procedural errors that harmed the Plaintiffs;

- (x) using his seniority to suppress internal concerns or dissent regarding the investigation's legitimacy;
- (y) encouraging a culture of targeting specific individuals without lawful justification, contributing to systemic investigative failures;
- (z) knowingly instructing or pressuring officers to proceed with a flawed investigation despite clear deficiencies;
- (aa) failing to maintain neutrality and fairness in the investigation, instead operating with bias or a pre-determined objective to charge the Plaintiffs;
- (ab) unlawfully seizing Mr. Justice's mobile phone without judicial authorization or lawful grounds, in violation of search and seizure protections, thereby exceeding lawful investigative powers and violating established legal standards for evidence collection;
- (ac) improperly pressuring a medical professional to provide evidence in support of charges against Mr. Justice, despite the witness's refusal and lack of independent evidentiary basis, thereby compromising investigative integrity and violating professional independence; and
- (ad) expanding the investigation to target Mrs. Justice without an evidentiary foundation, despite knowing that no reasonable or probable grounds existed to justify her involvement, thereby abusing investigative discretion and misusing police authority.

331. Det. White breached the standard of care in the course of his participation in the active investigation of alleged criminal and quasi-criminal offenses against the Plaintiffs, including but not limited to:

- (a) failing to assess evidence objectively, disregarding material inconsistencies, and adopting a biased, one-sided approach that lacked investigative integrity;
- (b) knowingly pursuing criminal allegations despite the absence of reasonable and probable grounds, contrary to fundamental policing standards;
- (c) attempting to escalate an alleged *RTA* violation into a *Criminal Code* offence, despite knowing the conduct did not meet the legal threshold for criminality;
- (d) conducting an investigation with a pre-determined objective to find a way to charge Mr. Justice criminally, rather than conducting an impartial inquiry based on available evidence;
- (e) misrepresenting or distorting the nature of the allegations to justify investigative steps that lacked legal and factual foundation;
- (f) abusing investigative powers by using his position to target Mr. Justice for reasons unrelated to legitimate law enforcement objectives;
- (g) failing to ensure investigative steps complied with established policing protocols, leading to procedural errors that undermined the integrity of the investigation;

- (h) engaging in an improper collaboration with S/Sgt. Desjourdy to pursue a pre-determined criminal prosecution despite knowing that no legal grounds existed;
- (i) making explicit threats to continue pursuing Mr. Justice without any lawful justification, demonstrating a malicious and retaliatory intent;
- (j) failing to act independently, instead allowing personal bias or external pressures to dictate the investigative outcome; and
- (k) knowingly participating in an investigation tainted by bad faith, including suppressing exculpatory evidence, fabricating grounds for criminal charges, and disregarding professional obligations.

332. Cst. Tessier breached the standard of care in the course of his participation in the active investigation of alleged criminal and quasi-criminal offenses against the Plaintiffs, including but not limited to:

- (a) detaining Mr. Justice without reasonable and probable grounds, engaging in an unlawful arbitrary detention that lacked any lawful justification;
- (b) engaging in improper investigative tactics to unlawfully coerce compliance, including using physical and psychological intimidation to pressure Mr. Justice into signing a police undertaking;

- (c) attempting to impose extrajudicial undertakings on the Plaintiffs without the legal precondition of an arrest, circumventing standard legal procedures and judicial oversight;
- (d) acting beyond his lawful jurisdiction by seeking to impose constraints on liberty without following proper legal procedures, thereby violating established policing and constitutional safeguards;
- (e) participating in a pattern of oppressive conduct by repeatedly attempting to secure compliance through intimidation rather than lawful authority, including surrounding Mr. Justice's vehicle with multiple police cruisers;
- (f) failing to properly document or justify the investigative actions taken against the Plaintiffs, contributing to an arbitrary and unaccountable police process;
- (g) engaging in investigative actions designed to circumvent judicial oversight by coercing extrajudicial undertakings instead of following proper legal procedures for obtaining a warrant or laying charges;
- (h) knowingly escalating a minor investigative matter into an unjustified criminal enforcement action despite the absence of evidence warranting such escalation;
- (i) facilitating an improper investigative agenda directed by S/Sgt. Desjourdy, despite the absence of legal justification for the actions taken;

- (j) knowingly participating in an investigation that lacked reasonable and probable grounds, rather than ensuring proper legal safeguards were followed;
- (k) using his authority as a police officer to exert undue influence over the Plaintiffs, despite lacking any lawful basis to demand compliance with the proposed undertakings;
- (l) misrepresenting the nature of his authority by giving the impression that compliance with the undertakings was mandatory, when in fact no lawful grounds existed to compel them;
- (m) disregarding the Plaintiffs' explicit statements that they were not legally obligated to sign the undertakings and failing to follow due process when they declined to do so;
- (n) escalating the encounter with Mr. Justice by deliberately blocking his vehicle, calling for backup, and creating a show of force with multiple police officers to exert pressure;
- (o) failing to release Mr. Justice when it became clear that there were no legal grounds to detain him, instead prolonging the detention at the direction of S/Sgt. Desjourdy;
- (p) engaging in a coordinated effort with Cst. Nizman and other officers to apply psychological coercion through an overwhelming police presence without any lawful basis;

- (q) failing to recognize and respect the Plaintiffs' constitutional rights under the *Charter*, including their rights against arbitrary detention and coercive police conduct; and
- (r) failing to independently assess the lawfulness of his actions and instead deferring to improper directives that violated police training and procedural safeguards.

333. Cst. Nizman breached the standard of care in the course of his participation in the active investigation of alleged criminal and quasi-criminal offenses against Mr. Justice, including but not limited to:

- (a) knowingly misrepresenting new allegations against Mr. Justice during the parking lot encounter in order to fabricate justification for his warrantless arrest under section 495 of the *Criminal Code*, despite knowing these allegations had no legal merit;
- (b) initiating an unlawful escalation by introducing new allegations after Mr. Justice declined to comply with the undertaking, demonstrating an improper retaliatory motive rather than investigative necessity;
- (c) knowingly participating in an investigation that lacked reasonable and probable grounds, rather than ensuring proper legal safeguards were followed;
- (d) engaging in improper investigative tactics to unlawfully coerce compliance, including using psychological intimidation and misrepresenting the legal consequences of refusing to sign an undertaking;

- (e) acting beyond his lawful jurisdiction by seeking to impose constraints on liberty without following proper legal procedures, thereby violating established policing and constitutional safeguards;
- (f) using his authority as a police officer to exert undue influence over Mr. Justice, despite lacking any lawful basis to demand compliance with the proposed undertaking;
- (g) misrepresenting the nature of his authority, giving the impression that compliance with the undertaking was mandatory when, in fact, no lawful grounds existed to compel it;
- (h) engaging in a coordinated effort with other officers to apply psychological coercion through an overwhelming police presence without any lawful basis;
- (i) disregarding Mr. Justices' explicit statements that he was not legally obligated to sign the undertaking and failing to follow due process when he declined to do so;
- (j) failing to assess the credibility of the allegations he made against Mr. Justice, including neglecting to scrutinize their factual and legal foundation before asserting them as a basis for further police action;
- (k) facilitating an improper investigative agenda directed by S/Sgt. Desjourdy, despite the absence of legal justification for the actions taken;



- (l) failing to recognize and respect Mr. Justices' constitutional rights under the *Charter*, including his rights against arbitrary detention and coercive police conduct; and
- (m) failing to independently assess the lawfulness of his actions and instead deferring to improper directives that violated police training and procedural safeguards.

#### Causation and Harm Suffered

334. As a direct and reasonably foreseeable consequence of the breaches of the duty of care by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, the Plaintiffs suffered significant harm, including but not limited to:

- (a) deprivation of liberty due to wrongful charges or detentions;
- (b) psychological distress and emotional trauma, including anxiety, depression, and fear of further police misconduct;
- (c) reputational damage arising from unfounded allegations, public humiliation, and loss of standing within their personal and professional communities;
- (d) financial harm, including legal costs, lost income, and other monetary losses directly attributable to the negligent investigations;
- (e) disruption of personal and professional life, including lost opportunities and severe career consequences;

- (f) deterioration of physical health due to stress-related conditions, sleep disturbances, and other medical issues exacerbated by police misconduct;
- (g) strain on familial and social relationships, including emotional hardship inflicted upon immediate family members as a result of the wrongful investigations;
- (h) prolonged legal entanglement, including wrongful prosecutions, unnecessary and burdensome court proceedings, procedural unfairness, and an ongoing struggle to clear their names, causing prolonged uncertainty and legal hardship;
- (i) loss of trust in law enforcement, the justice system, and institutional safeguards, leading to a permanent sense of insecurity and fear of future injustice; and
- (j) violation of their *Charter* rights, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive activity, caused by retaliatory investigative conduct aimed at deterring public criticism of law enforcement;
  - (ii) section 7 (life, liberty, and security of the person) – through psychological harm, loss of liberty, and personal insecurity caused by wrongful and negligent investigative conduct;
  - (iii) section 8 (unreasonable search or seizure) – through unjustified and intrusive interference with privacy interests, resulting from investigative practices conducted without proper basis or restraint;

- (iv) section 9 (arbitrary detention) – through unjustified restraint and deprivation of liberty resulting from negligent investigative conclusions or omissions;
- (v) section 10 (rights on arrest or detention) – through impaired access to counsel and inadequate communication of detention reasons, flowing from negligent investigation and procedural mishandling;
- (vi) section 11 (rights of persons charged) – through procedural unfairness, including delay and prejudice, caused by negligent investigative failures that undermined the integrity of the prosecution;
- (vii) section 12 (cruel and unusual treatment or punishment) – through serious psychological harm and humiliation, caused by sustained investigative negligence that foreseeably subjected them to unjustified legal jeopardy and distress; and
- (viii) section 15 (equality rights) – through differential and adverse treatment arising from their identity as whistleblowers and civilian oversight actors, flowing from biased or improperly motivated investigations.

## Damages

335. As a direct and reasonably foreseeable consequence of the breaches of the standard of care by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, the Plaintiffs suffered the harm described above and claim damages.

## Negligence

336. S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman were negligent in the execution of their duties as police officers.

## Duty of Care

337. S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman owed a duty of care to Mr. Justice in the exercise of their police powers.

338. The duty of care arises from:

- (a) the general duty of police officers to exercise reasonable care in the performance of their duties;
- (b) the proximity between S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman and Mr. Justice in the context of their exercise of police powers, including detention and coercive police conduct;
- (c) the fact that it was reasonably foreseeable that the actions or omissions of S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman would cause harm to Mr. Justice; and

- (d) the statutory and common law duty of police officers to act in a manner that does not unreasonably endanger or harm individuals in their custody or control.

#### Standard of Care

339. The standard of care required that S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman act as reasonable and competent police officers would in similar circumstances.

340. The standard of care includes, but is not limited to:

- (a) acting with reasonable care to avoid causing foreseeable harm;
- (b) complying with police training, policies, and procedures applicable to the situation;
- (c) exercising professional judgment and discretion in a manner that does not expose individuals to unnecessary risk or harm;
- (d) ensuring that police authority is exercised within the bounds of law and not in a manner that negligently inflicts harm; and
- (e) preventing unlawful or unjustified interference with individual liberty and personal security.

#### Breach of the Standard of Care

341. S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman breached the standard of care by failing to exercise reasonable care in the circumstances, including but not limited to:

- (a) failing to operate and position a police vehicle safely, including obstructing Mr. Justice's vehicle without lawful justification, escalating the encounter in a confined parking lot, and creating a foreseeable risk of harm;
- (b) failing to de-escalate the encounter despite no lawful basis to detain Mr. Justice, and instead using police presence as a coercive show of force;
- (c) unlawfully detaining and prolonging Mr. Justice's detention despite knowing there were no reasonable or probable grounds, including continuing the detention beyond any reasonable time frame after it was clear no legal grounds existed;
- (d) using coercive and intimidating police tactics, including surrounding Mr. Justice's vehicle to unlawfully pressure him into compliance;
- (e) failing to intervene, prevent, or correct unlawful police actions, despite having the duty and opportunity to do so;
- (f) misrepresenting a medical emergency by calling multiple ambulances and falsely claiming medical intervention was necessary, despite Mr. Justice's repeated confirmation that he was not in medical distress, thereby escalating the situation, prolonging his detention without justification, and facilitating his forcible removal and arrest without lawful basis;
- (g) forcibly extracting Mr. Justice from his vehicle without issuing a lawful command or allowing him to surrender voluntarily, causing him to be thrown face-first onto the pavement, resulting in bruising and physical trauma;

- (h) failing to assess reasonable and probable grounds before arrest, including falsely asserting that Mr. Justice posed a risk of fleeing or ramming officers, despite their own reports contradicting such claims;
- (i) coordinating an unnecessary and excessive show of force by deploying multiple officers and police vehicles to surround Mr. Justice's vehicle, despite the absence of any legitimate safety threat;
- (j) failing to respect Mr. Justice's repeated assertions of his *Charter* rights and his lawful refusal to sign an undertaking, instead continuing to coerce compliance without legal justification;
- (k) misrepresenting the presence of an immediate safety threat by falsely asserting that Mr. Justice posed a risk of fleeing, ramming officers, or striking civilians with his vehicle, despite police reports contradicting such claims;
- (l) coordinating an excessive and unnecessary police response by deploying multiple officers and vehicles to encircle and intimidate Mr. Justice without any lawful justification; and
- (m) using police presence and maneuvering tactics to create a psychological barrier that unlawfully pressured Mr. Justice into compliance with the unlawful undertaking.

#### Causation and Foreseeability

342. As a direct and reasonably foreseeable consequence of the breaches of the standard of

care by S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman, Mr. Justice suffered harm.

343. The harm suffered by Mr. Justice was a direct result of the negligence of S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman and was reasonably foreseeable in the circumstances.

#### Harm and Damages

344. As a result of the negligence of S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman, Mr. Justice suffered harm, including but not limited to:

- (a) deprivation of liberty due to wrongful and unlawful detention;
- (b) psychological harm, including anxiety, emotional distress, and mental anguish resulting from coercive police conduct;
- (c) reputational damage arising from being subjected to unlawful detention and police coercion;
- (d) financial losses, including legal costs and expenses incurred in seeking to remedy the unlawful actions of S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman;
- (e) physical harm, bodily injuries, pain, and suffering arising from the use of excessive force, including his violent extraction from the vehicle and being thrown onto the pavement; and
- (f) violation of his rights under the *Charter*, including breaches of:



- (i) section 7 (life, liberty, and security of the person) – through unlawful detention and coercion;
- (ii) section 8 (unreasonable search or seizure) – through unjustified intrusions upon reasonable expectations of privacy resulting from negligent failure to prevent or limit excessive state interference;
- (iii) section 9 (arbitrary detention) – through the continued unlawful restriction of liberty resulting from negligent custodial handling;
- (iv) section 10 (rights on arrest or detention) – through delayed access to legal counsel and inadequate communication of detention reasons arising from negligent custodial handling;
- (v) section 12 (cruel and unusual treatment or punishment) – through physical and psychological harm caused by negligent disregard for basic needs and human dignity; and
- (vi) section 15 (equality rights) – through unequal treatment on the basis of *Charter*-protected grounds, perpetuated or left unaddressed due to negligent inaction or oversight.

345. Mr. Justice claims damages for the harm suffered as a result of the negligence of S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman.

## Malicious Prosecution

### Initiation of the Prosecutions

346. S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage initiated and pursued criminal and quasi-criminal prosecutions against the Plaintiffs.

347. S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage were actively involved in laying charges and ensuring the prosecutions proceeded, including but not limited to:

- (a) participating in the drafting and swearing of an information;
- (b) providing evidence or materials relied upon to justify the prosecutions;
- (c) advising, directing, or consenting to the laying of charges;
- (d) reviewing and assessing evidence in relation to the decision to proceed with prosecutions;
- (e) managing disclosure and related prosecutorial obligations;
- (f) making decisions related to the continuation or termination of proceedings;
- (g) appearing before the court and making submissions in furtherance of the prosecutions; and

- (h) any other acts demonstrating their direct involvement.

#### Termination of the Prosecutions in the Plaintiffs' Favour

348. The prosecutions against the Plaintiffs were terminated in their favour, including but not limited to:

- (a) a stay of proceedings for the 2021 charges of fraud exceeding \$5,000, laundering proceeds of crime, and possession of property obtained by crime, entered on September 24, 2021;
- (b) a stay of proceedings for the 2019 charge against Mr. Justice of furnishing false or misleading information under the *RTA*, entered on October 3, 2022;
- (c) a stay of proceedings for the 2023 charges of obstructing justice and use of a forged document, entered on May 22, 2024;
- (d) a stay of proceedings for the 2023 charge of perjury against Mr. Justice, entered on May 22, 2024;
- (e) a stay of proceedings for the 2021 charges of obstructing justice and use of a forged document, entered on May 28, 2024; and
- (f) any other final disposition confirming that none of the prosecutions resulted in a conviction.

## Prosecutions Instituted Without Reasonable and Probable Grounds

349. S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage initiated and maintained the prosecutions against the Plaintiffs without reasonable and probable grounds.

350. S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage lacked an honest belief, based on objectively sufficient evidence, that the Plaintiffs had committed an offence.

351. The absence of reasonable and probable grounds is demonstrated by:

- (a) failing to consider or disregarding exculpatory evidence;
- (b) relying on false, misleading, or unreliable evidence;
- (c) acting with tunnel vision, bias, or reckless disregard for the truth;
- (d) failing to conduct an independent and objective assessment of the available evidence before proceeding with or continuing the prosecution;
- (e) misapplying or disregarding established legal and procedural safeguards;
- (f) proceeding with charges despite material inconsistencies or contradictions in the evidence;

- (g) sustaining the prosecution without re-evaluating reasonable and probable grounds as new evidence emerged;
- (h) continuing the prosecution despite judicial findings, legal deficiencies, or procedural irregularities that undermined the legitimacy of the case; and
- (i) any other relevant facts showing a lack of proper investigative and prosecutorial assessment.

#### Malice or an Improper Purpose

352. S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage acted with malice or for an improper purpose.

353. Their malice and improper purpose are demonstrated by:

- (a) a personal vendetta or animus against the Plaintiffs;
- (b) a reckless disregard for the administration of justice;
- (c) an improper motive, such as retaliation, discrimination, reputational harm, or political pressure;
- (d) knowingly relying on false or misleading evidence;
- (e) suppressing exculpatory evidence or misleading the court;

- (f) abusing prosecutorial or investigative powers to achieve a collateral or extraneous purpose;
- (g) pursuing charges despite knowing or recklessly disregarding the absence of any lawful foundation;
- (h) deliberately inflating or exaggerating charges beyond what was legally justifiable;
- (i) using the prosecution as a means to intimidate, silence, or punish the Plaintiffs beyond legitimate law enforcement objectives; and
- (j) any other relevant factors demonstrating bad faith, dishonesty, or an abuse of process.

#### Causation and Foreseeability

354. As a direct and reasonably foreseeable consequence of the malicious prosecutions initiated and pursued by S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, the Plaintiffs suffered harm, including but not limited to:

- (a) deprivation of liberty due to arrest, detention, or bail conditions;
- (b) significant reputational harm, including public disgrace and damage to career or relationships;
- (c) severe psychological harm, including anxiety, emotional distress, and trauma;

- (d) substantial financial harm, including legal fees, lost income, and other economic losses;
- (e) intrusion upon the Plaintiffs' privacy and dignity through unwarranted legal scrutiny and coercive prosecution tactics;
- (f) undue strain on family relationships, social standing, and professional reputation, resulting in broader consequences beyond immediate reputational harm; and
- (g) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through the suppression of their freedom to speak on matters of public concern and retaliatory punishment for expressive activity, resulting from prosecutions initiated and sustained in response to their public criticism of police and prosecutorial misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through the infringement of their liberty, personal security, and psychological integrity caused by prolonged, coercive, and baseless criminal proceedings contrary to the principles of fundamental justice;
  - (iii) section 8 (unreasonable search or seizure) – through unjustified intrusions into their privacy interests carried out in furtherance of proceedings known to lack any lawful foundation;

- (iv) section 9 (arbitrary detention) – through deprivation of liberty, including both physical and psychological detention, resulting from prosecutions maintained without lawful justification;
- (v) section 10 (rights on arrest or detention) – through delayed access to legal counsel and impaired understanding of the reasons for arrest, arising from prosecutions knowingly pursued despite an absence of merit;
- (vi) section 11 (rights of persons charged) – through procedural unfairness, including undue delay, denial of full disclosure, and violations of the right to a fair trial, flowing from meritless and improperly maintained criminal proceedings;
- (vii) section 12 (cruel and unusual treatment or punishment) – through serious psychological harm and unlawful pressure caused by punitive prosecutions devoid of any legitimate prosecutorial objective; and
- (viii) section 15 (equality rights) – through unequal and retaliatory treatment based on their identity as civilian oversight actors and vocal critics of state misconduct, resulting in a denial of equal protection and benefit of the law.



## Damages

355. The Plaintiffs claim damages for the harm suffered as a result of the malicious prosecutions initiated and pursued by S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage.

## Misfeasance in Public Office

### Public Office and Duty

356. S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage held public office and, at all material times, exercised powers and authority as police officers and Crown prosecutors under the colour of their official duties.

357. As public officials, S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage owed duties to act lawfully, in good faith, and within the scope of their lawful authority. They were prohibited from abusing, exceeding, or misusing their authority and were required to exercise their powers without malice, improper motive, or disregard for legal constraints.

358. The legal duties owed by public officials include but are not limited to:

- (a) exercising discretion and authority in a manner that is fair, impartial, and consistent with the rule of law;

- (b) ensuring that their public office is not used for an improper, ulterior, or malicious purpose;
- (c) refraining from knowingly unlawful, reckless, or ultra vires conduct that exceeds their jurisdiction;
- (d) ensuring their actions do not willfully or recklessly cause harm to individuals affected by their decisions; and
- (e) complying with all statutory, common law, and constitutional obligations governing the exercise of public authority.

#### Unlawful Conduct Committed in Public Office

359. S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, in the course of their public office, engaged in deliberate and unlawful acts, including but not limited to:

- (a) knowingly exceeding their lawful authority in initiating, directing, or continuing legal proceedings against the Plaintiffs despite the absence of reasonable and probable grounds;
- (b) abusing legal and judicial processes to achieve improper, collateral, or retaliatory objectives rather than a legitimate law enforcement or prosecutorial function;
- (c) knowingly violating the Plaintiffs' *Charter* rights, including through unlawful detention, coercion, fabrication of grounds for arrest, or prosecutorial misconduct;

- (d) deliberately presenting false, misleading, or incomplete evidence, or withholding material information that was legally required to be disclosed;
- (e) suppressing, concealing, or disregarding exculpatory evidence to manipulate or distort the legal process;
- (f) escalating, inflating, or exaggerating charges with the knowledge that they were legally baseless, unjustified, or pursued for an ulterior motive;
- (g) engaging in coercive, retaliatory, or oppressive tactics to intimidate or unlawfully pressure the Plaintiffs into compliance or submission;
- (h) failing to prevent, correct, or intervene in known unlawful conduct despite possessing supervisory authority and a duty to act;
- (i) advancing or maintaining charges for an improper, punitive, or retaliatory purpose, including to shield institutional actors from accountability or to suppress legitimate complaints;
- (j) engaging in arbitrary and unlawful detention, in violation of established legal and constitutional safeguards;
- (k) willfully disregarding procedural safeguards, legal standards, and due process protections, knowing that such actions would result in harm to the Plaintiffs;

- (l) acting with reckless indifference to the Plaintiffs' rights, liberty, and the fairness of judicial proceedings, despite knowing the likely consequences of their misconduct;
- (m) knowingly initiating or sustaining legal proceedings for an extraneous or improper purpose, including where no legal basis existed to justify prosecution;
- (n) deliberately misrepresenting or misstating legal authority to justify unlawful actions, including detentions, arrests, or prosecutorial decisions; and
- (o) any other acts demonstrating an abuse of public office for purposes beyond legitimate law enforcement or prosecutorial discretion, including to secure personal, political, or institutional advantage.

#### Knowledge or Recklessness as to the Unlawfulness of Conduct

360. S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage knew or were recklessly indifferent to the fact that their conduct was unlawful, exceeded their lawful authority, or constituted an abuse of public office.

361. Their knowledge or reckless indifference is demonstrated by, but not limited to:

- (a) deliberately disregarding legal limits, procedural safeguards, or statutory obligations despite a duty to uphold them;

- (b) persisting in wrongful conduct despite judicial findings, legal warnings, or clear prohibitions indicating that their actions were unlawful;
- (c) knowingly exceeding their authority or acting without any lawful basis, demonstrating a conscious disregard for their legal and ethical obligations;
- (d) engaging in conduct so egregious that no reasonable public official could believe it was lawful or justified; and
- (e) any other conduct demonstrating knowledge or reckless indifference to the unlawfulness of their actions.

#### Intent to Injure or Reckless Disregard for Consequences

362. S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage acted with intent to injure the Plaintiffs or others, or with reckless disregard for the foreseeable harm their conduct would cause.

363. Their improper intent is demonstrated by, but not limited to:

- (a) acting out of personal animus, spite, or retaliation, including using legal processes as a means of reprisal;
- (b) misusing public office to punish, intimidate, or coerce the Plaintiffs beyond lawful enforcement or prosecutorial discretion;

- (c) knowingly engaging in conduct that caused harm, suffering, or violations of constitutional and legal rights, despite their professional obligations;
- (d) targeting the Plaintiffs without lawful justification or for an improper purpose, including the deliberate pursuit of charges despite the absence of reasonable and probable grounds; and
- (e) any other deliberate misuse of public office that resulted in harm, including actions taken for personal, institutional, or political gain at the expense of justice.

#### Causation and Foreseeability

364. As a direct and reasonably foreseeable consequence of the misfeasance in public office by S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, the Plaintiffs suffered harm, including but not limited to:

- (a) deprivation of liberty due to wrongful arrest, arbitrary detention, or prosecution pursued in bad faith;
- (b) severe psychological harm, including anxiety, emotional distress, and trauma;
- (c) significant reputational harm, including public disgrace, damage to career, and lasting stigma arising from wrongful prosecution;
- (d) substantial financial harm, including excessive legal fees, lost income, and other economic losses arising directly from wrongful state actions;

- (e) intrusion upon privacy and dignity through coercive, unlawful, and retaliatory state conduct;
- (f) irreparable strain on family relationships, social standing, and professional reputation, resulting in pervasive and long-term consequences beyond immediate reputational harm; and
- (g) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of the Plaintiffs’ expressive activity and retaliatory punishment for lawful speech on matters of public interest, caused by public officials knowingly misusing the powers of office to pursue baseless prosecutions in response to public criticism of police and prosecutorial misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through psychological harm, prolonged legal coercion, and unjustified intrusions upon liberty and personal security, resulting from deliberate and unlawful exercises of public authority contrary to the principles of fundamental justice;
  - (iii) section 8 (unreasonable search or seizure) – through unlawful, excessive, or unsupported searches, seizures, and compelled disclosures carried out or condoned by public officials acting beyond the scope of their lawful authority;

- (iv) section 9 (arbitrary detention) – through deprivation of liberty, including both physical and psychological detention, resulting from prosecutions knowingly initiated or maintained without evidentiary foundation or lawful justification;
- (v) section 10 (rights on arrest or detention) – through impaired access to legal counsel and delayed or unclear communication of the reasons for detention, caused by the intentional frustration of procedural safeguards by public officials;
- (vi) section 11 (rights of persons charged) – through procedural unfairness, including undue delay, denial of disclosure, and abuse of prosecutorial discretion, knowingly orchestrated to deprive the Plaintiffs of a fair trial;
- (vii) section 12 (cruel and unusual treatment or punishment) – through prolonged psychological suffering and coercive pressure caused by retaliatory and oppressive state conduct that exceeded lawful bounds and was intended or known to cause harm; and
- (viii) section 15 (equality rights) – through unequal and retaliatory treatment based on the Plaintiffs’ identity as civilian oversight actors and critics of state misconduct, resulting in a denial of the equal protection and benefit of the law.



## Damages

365. The Plaintiffs claim damages for the harm suffered as a result of the misfeasance in public office by S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage.

## Abuse of Process

### Improper Use of Legal Proceedings

366. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman directed, caused, or carried out the misuse of legal and judicial processes against the Plaintiffs for a purpose inconsistent with the proper administration of justice.

367. The improper use of legal and judicial processes included, but was not limited to:

- (a) initiating, directing, causing, or maintaining legal proceedings despite knowing they were legally baseless, unwarranted, or pursued for an improper purpose;
- (b) manipulating procedural mechanisms—including adjournments, evidentiary rulings, disclosure obligations, and arrest procedures—to obstruct or interfere with the Plaintiffs' legal rights and access to justice;
- (c) deliberately escalating, inflating, or layering additional charges to exert pressure, intimidate, or cause reputational harm, rather than for any legitimate law enforcement objective;

- (d) withholding, suppressing, distorting, or misrepresenting material evidence in a manner that impaired the fairness of proceedings and the Plaintiffs' ability to mount a proper defence;
- (e) continuing or sustaining legal action despite judicial findings, procedural rulings, or evidentiary deficiencies that undermined the legitimacy of the case, thereby subjecting the Plaintiffs to prolonged and unjustified legal jeopardy;
- (f) using the threat of legal consequences as leverage to extract compliance, deter complaints, or obstruct the Plaintiffs from exercising their legal rights and seeking remedies;
- (g) exploiting legal proceedings as a tool of coercion, retribution, or personal retaliation, rather than for a bona fide prosecutorial or law enforcement function;
- (h) directing, sustaining, or manipulating legal action to shield their own misconduct—or that of other institutional actors—from exposure, scrutiny, or accountability;
- (i) engaging in oppressive or abusive litigation tactics designed to exhaust, intimidate, or improperly burden the Plaintiffs with unnecessary legal proceedings;
- (j) deliberately obstructing or delaying exculpatory proceedings, including improperly resisting withdrawals, stays, or disclosure obligations that would have resolved the matter in the Plaintiffs' favour;

- (k) misusing warrantless arrest powers by deliberately bypassing judicial oversight, knowing that no lawful basis existed for detention, and exploiting procedural loopholes to justify continued legal jeopardy; and
- (l) any other conduct demonstrating an intentional and systemic misuse of legal and judicial processes beyond a legitimate prosecutorial or law enforcement function.

#### Improper Purpose and Collateral Motives

368. The abuse of legal and judicial processes was directed, caused, and carried out for collateral, punitive, or improper motives, rather than to fairly administer justice. These motives included but were not limited to:

- (a) retaliating against the Plaintiffs for asserting legal rights, filing complaints, or exposing misconduct;
- (b) shielding institutional actors from accountability by continuing baseless prosecutions to divert attention from internal failures, errors, or misconduct;
- (c) inflicting financial, reputational, psychological, or emotional harm on the Plaintiffs as a means of extrajudicial punishment, rather than pursuing any legitimate enforcement objective;
- (d) exerting undue pressure, coercion, or intimidation by placing the Plaintiffs in a state of prolonged legal uncertainty, hardship, and distress;

- (e) deliberately misusing legal processes to fabricate, inflate, or prolong unfounded legal jeopardy; and
- (f) pursuing any other improper, collateral, or ulterior objective beyond the lawful and legitimate administration of justice.

#### Procedural and Evidentiary Manipulation

369. The abuse of legal and judicial processes was further demonstrated by procedural and evidentiary misconduct, including but not limited to:

- (a) deliberately misusing judicial processes to secure an unfair procedural advantage, including improper applications, motions, or procedural tactics intended to obstruct or delay fair proceedings;
- (b) advancing false, misleading, or unreliable evidence in furtherance of an improper objective, despite knowing or recklessly disregarding its inaccuracy or legal insufficiency;
- (c) suppressing, concealing, or delaying exculpatory evidence to manipulate the outcome of legal proceedings, obstruct disclosure obligations, or deprive the Plaintiffs of a fair opportunity to respond;
- (d) engaging in procedural obstruction, including the misuse of adjournments, delays, or improper applications, designed to frustrate the Plaintiffs' ability to defend themselves and interfere with the timely administration of justice;

- (e) knowingly advancing charges, allegations, or procedural applications contrary to established legal safeguards and precedents, despite knowing that such actions lacked legal merit or contravened due process principles; and
- (f) any other misuse of legal and judicial processes intended to circumvent fairness, procedural integrity, or the Plaintiffs' legal rights, including any act that subverts due process, obstructs accountability, or undermines the administration of justice.

#### Causation and Foreseeability

370. As a direct and reasonably foreseeable consequence of the abuse of legal and judicial processes directed, caused, or carried out by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, the Plaintiffs suffered harm, including but not limited to:

- (a) prolonged deprivation of liberty, legal uncertainty, and procedural disadvantage arising from the improper use of legal mechanisms;
- (b) severe psychological harm, including chronic stress, anxiety, emotional distress, and trauma, directly caused by the wrongful use of legal and judicial processes;
- (c) substantial financial harm, including excessive legal expenses, lost income, and other economic losses arising directly from the wrongful and improper use of legal and judicial processes;
- (d) irreparable reputational harm, including professional, personal, and social damage resulting from prolonged, baseless, or improperly motivated legal proceedings;

- (e) intrusion upon privacy and dignity through coercive, unlawful, or retaliatory actions carried out under the guise of legal authority;
- (f) severe and unwarranted strain on family relationships, professional standing, and social reputation, leading to long-term and far-reaching consequences beyond immediate reputational harm; and
- (g) any other foreseeable consequences of the abuse of legal and judicial processes, as will be further particularized in this proceeding.

#### Violation of *Charter* Rights

371. The abuse of legal and judicial processes directed, caused, or carried out by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman resulted in violations of the Plaintiffs' rights under the *Charter*, including but not limited to:

- (a) section 2(b) (freedom of expression) – through suppression of the Plaintiffs' expressive activity on matters of public interest and accountability, caused by the initiation and maintenance of legal proceedings for the improper and ulterior purpose of silencing their public criticisms of law enforcement and prosecutorial misconduct;
- (b) section 7 (life, liberty, and security of the person) – through deprivation of fair process, personal liberty, and psychological security, resulting from retaliatory legal tactics and the deliberate misuse of state power in a manner contrary to the principles of fundamental justice;

- (c) section 8 (unreasonable search or seizure) – through violation of the Plaintiffs’ reasonable expectation of privacy, caused by the improper collection, use, or disclosure of personal information in support of proceedings pursued for retaliatory or collateral purposes, including reliance on unlawfully obtained evidence;
- (d) section 9 (arbitrary detention) – through psychological and procedural restraint amounting to actual and constructive detention, arising from the coercive and unjustified initiation and continuation of legal proceedings without lawful justification;
- (e) section 10 (rights on arrest or detention) – through impaired access to legal counsel and delayed or inadequate communication of the reasons for arrest or detention, resulting from the misuse of legal processes for retaliatory and improper purposes;
- (f) section 11 (rights of persons charged) – through procedural unfairness, including denial of full disclosure, delay, and lack of impartial adjudication, caused by the pursuit of meritless proceedings for ulterior objectives;
- (g) section 12 (cruel and unusual treatment or punishment) – through disproportionate psychological harm and legal oppression, inflicted by legal processes knowingly used to cause hardship beyond any legitimate prosecutorial purpose; and
- (h) section 15 (equality rights) – through unequal, discriminatory, and retaliatory application of legal processes, resulting from targeting the Plaintiffs based on

their identity as whistleblowers and civilian critics of police and prosecutorial misconduct.

### Damages

372. The Plaintiffs claim damages for the harm suffered as a result of the abuse of legal and judicial processes that were directed, caused, or carried out by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman.

### **Abuse of Process (Prosecutorial)**

373. The Plaintiffs plead that D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, authorized, caused, or carried out a sustained misuse of prosecutorial authority against them by initiating, maintaining, and manipulating legal proceedings for purposes that were contrary to the proper administration of justice. Their conduct exceeded the limits of lawful discretion, weaponized the machinery of prosecution for ulterior ends, and inflicted process-based harms that warrant civil accountability. The Plaintiffs plead that the tort of abuse of process should be expressly extended to recognize a distinct cause of action for prosecutorial abuse of process, grounded in established legal principles and reflective of the unique responsibilities borne by Crown prosecutors.

### Improper Use of Legal Proceedings

374. The Plaintiffs plead that the Crown prosecutors used their authority to initiate or continue criminal proceedings in circumstances that lacked a proper foundation in evidence, fairness, or



public interest. These proceedings included prosecutions that were duplicative, unfounded, or strategically layered to circumvent judicial scrutiny and undermine the Plaintiffs' ability to access fair process. The prosecutors authorized or maintained proceedings despite known defects in disclosure, factual reliability, and legal viability, including circumstances where the evidentiary basis was stale, immaterial, or unsupported by reasonable and probable grounds. In doing so, they converted the process of prosecution into a tool of strategic harassment and institutional reprisal.

#### Improper Purpose and Collateral Motives

375. The Plaintiffs plead that these proceedings were pursued, in whole or in part, for improper purposes, including retaliation for the Plaintiffs' public criticism of police and prosecutorial misconduct, the suppression of public accountability, and institutional self-interest. The prosecutors acted, not out of a duty to pursue justice, but to protect institutional reputations, insulate the OCAO from scrutiny, and justify the continuation of resource-intensive investigations already under criticism. The pursuit of charges became untethered from legal merit and instead aligned with collateral motives aimed at punishing dissent and neutralizing civilian oversight efforts.

#### Procedural and Evidentiary Manipulation

376. The Plaintiffs plead that the prosecutors engaged in deliberate manipulation of legal and evidentiary processes. This included: the suppression or non-disclosure of exculpatory evidence; the use of procedural mechanisms to delay adjudication or derail *Charter* litigation; strategic scheduling decisions intended to exhaust the Plaintiffs' resources; and continued reliance on

investigative materials known to be unreliable or incomplete. In doing so, the prosecutors undermined the integrity of the proceedings and frustrated the Plaintiffs' rights to a fair and timely resolution. These actions were neither accidental nor the result of complexity, but formed part of a pattern of deliberate state conduct calculated to weaponize the legal process itself.

#### Causation and Foreseeability

377. The Plaintiffs plead that the harm they suffered was directly caused by the prosecutors' misuse of the criminal justice process and was reasonably foreseeable. The conduct alleged foreseeably resulted in prolonged psychological distress, reputational damage, disruption of livelihood, and deprivation of liberty and security, independent of any conviction or acquittal. The misuse of prosecutorial powers created systemic disadvantage and legal coercion that could not have resulted from a fair and impartial exercise of discretion.

#### Violation of *Charter* Rights

378. The Plaintiffs plead that the prosecutors' conduct gave rise to multiple violations of their rights under the *Charter*, including breaches of:

- (a) section 2(b) (freedom of expression) – through suppression of the Plaintiffs' expressive activity and retaliation for their public criticism of state actors, resulting from the improper use of prosecutorial authority to silence oversight efforts;
- (b) section 7 (life, liberty, and security of the person) – through legal jeopardy, psychological distress, and loss of personal security, caused by the pursuit of

proceedings devoid of lawful justification and animated by improper prosecutorial motives;

- (c) section 8 (unreasonable search or seizure) – through unjustified intrusion into private medical information, caused by the unauthorized and strategic use of prosecutorial authority to obtain, exploit, or misrepresent personal health data without lawful basis, in furtherance of proceedings pursued for retaliatory or collateral objectives;
- (d) section 9 (arbitrary detention) – through psychological detention and liberty restriction, caused by the coercive use of legal proceedings to compel compliance, control movement, and maintain state authority absent lawful justification, in furtherance of retaliatory or collateral prosecutorial objectives;
- (e) section 11(d) (right to a fair trial) – through deprivation of trial fairness, resulting from evidentiary manipulation, procedural delay, and strategic obstruction of defence rights carried out to advance ulterior prosecutorial objectives;
- (f) section 12 (cruel and unusual treatment or punishment) – through gratuitous psychological suffering and institutional harm, inflicted by prosecutorial conduct known or intended to cause hardship beyond any lawful purpose; and
- (g) section 15 (equality rights) – through differential and retaliatory treatment in the application of prosecutorial discretion, targeting the Plaintiffs on the basis of their role as public critics and civilian oversight actors.

## Damages

379. The Plaintiffs plead that they suffered serious and lasting harm as a result of the prosecutors' abuse of process, including prolonged psychological distress, reputational injury, legal expense, and deprivation of constitutional rights. The harm flowed not from the outcome of the proceedings, but from the deliberate misuse of the process itself. The Plaintiffs seek non-pecuniary, aggravated, and *Charter* damages arising from this abuse of prosecutorial authority, including public law damages pursuant to section 24(1) of the *Charter*.

## Recognition of the Tort

380. The Plaintiffs plead that the recognition of prosecutorial abuse of process as a distinct cause of action is a natural and necessary extension of existing Canadian law. The Supreme Court of Canada has long affirmed that abuse of process is a fundamental principle of justice, capable of grounding both procedural remedies and public law damages. In *Henry v. British Columbia (Attorney General)*, *Miazga v. Kvello Estate*, and *Vancouver (City) v. Ward*, the Court confirmed that prosecutors may be held accountable for conduct that violates constitutional rights or misuses state power. Where that conduct causes harm through the process itself—independent of malicious intent or conviction—the law must provide a remedy. This cause of action is consistent with the courts' constitutional obligation to ensure that state power is exercised lawfully, and that public actors, including prosecutors, remain accountable for deliberate misuse of legal proceedings.

381. The Plaintiffs plead that the proposed tort of prosecutorial abuse of process should be recognized where the following elements are established:

- (a) the prosecutor initiated or continued legal proceedings against the plaintiff;
- (b) the proceedings were pursued, in whole or in part, for a collateral or improper purpose unrelated to the fair administration of justice;
- (c) the prosecutor engaged in conduct—whether procedural, strategic, or evidentiary—that manipulated or distorted the legal process to achieve that improper purpose; and
- (d) the plaintiff suffered harm as a result of the process itself, independent of conviction, acquittal, or malicious intent.

382. This proposed test ensures that the cause of action remains narrowly tailored, consistent with the integrity of prosecutorial discretion, and focused on egregious process-based misconduct that has no other adequate remedy under existing law.

## **Unlawful Means Conspiracy**

### **Agreement and Common Design**

383. S/Sgt. Desjourdy and Det. White acted in concert, reaching a mutual understanding—express or implied—to engage in unlawful conduct through coordinated actions, communications, and decision-making, with the intent to harm Mr. Justice.

384. The conspiracy was formed through coordinated actions, communications, and mutual understanding, wherein S/Sgt. Desjourdy and Det. White knowingly collaborated to further their unlawful scheme. Their agreement was evidenced by, but not limited to:

- (a) deliberate coordination in directing, causing, and carrying out legal actions against Mr. Justice without reasonable and probable grounds;
- (b) exchanging information, directives, or instructions to facilitate unlawful measures that advanced their common objective;
- (c) acting in concert to suppress, misrepresent, or manipulate evidence in a manner designed to disadvantage Mr. Justice;
- (d) taking coordinated steps that demonstrated a shared intent to pursue unlawful means to achieve their objective; and
- (e) any other conduct establishing their mutual agreement and coordinated execution of unlawful actions.

#### Unlawful Conduct in Furtherance of the Conspiracy

385. The conspiracy was directed, caused, and carried out through unlawful, wrongful, and unjustified means, including but not limited to:

- (a) fabrication and manipulation of evidence – knowingly falsifying, distorting, or misrepresenting evidence to support unfounded allegations against Mr. Justice,

including making misleading statements, suppressing exculpatory evidence, and deliberately mischaracterizing material facts;

- (b) obstruction of justice and abuse of process – intentionally interfering with the administration of justice by suppressing material disclosure, engaging in improper prosecutorial tactics, and initiating legal proceedings for ulterior, retaliatory, or punitive motives;
- (c) unlawful *Charter* violations – knowingly engaging in unlawful arrests, arbitrary detentions, coercive prosecutorial tactics, and other violations of sections 2, 7, 8, 9, 11, 12, and 15 of the *Charter*, thereby infringing Mr. Justice’s liberty and security;
- (d) malicious prosecution and bad-faith prosecutions – advancing criminal and quasi-criminal charges despite the absence of reasonable and probable grounds, with the intent of harming, silencing, or exerting unlawful pressure on Mr. Justice, to achieve objectives unrelated to the proper administration of justice;
- (e) coordinated suppression of evidence – withholding, concealing, or failing to disclose exculpatory material, including evidence that undermined the justification for charges or supported Mr. Justice’s innocence;
- (f) retaliatory and collusive conduct – misusing the criminal justice system to shield institutional actors from accountability, retaliate against Mr. Justice for asserting his rights, or otherwise engage in conduct motivated by personal animus, professional reputation management, or institutional self-preservation; and

- (g) any other acts furthering the conspiracy – as will be further particularized in this proceeding, including additional unlawful, deceptive, or wrongful conduct carried out in furtherance of the conspiracy.

#### Knowledge and Intention to Injure Mr. Justice

386. S/Sgt. Desjourdy and Det. White directed, caused, and carried out actions that they knew or ought to have known were unlawful, exceeded their lawful authority, and would foreseeably cause harm to Mr. Justice.

387. The conspiracy was undertaken with malice, bad faith, and an intent to injure Mr. Justice—whether as a primary objective or as a foreseeable consequence of their deliberate or reckless disregard for his rights, liberty, and legal interests.

#### Causation and Foreseeability

388. As a direct and reasonably foreseeable consequence of the conspiracy between S/Sgt. Desjourdy and Det. White, and their deliberate use of unlawful means to carry out their common purpose, Mr. Justice suffered harm, including but not limited to:

- (a) deprivation of liberty – the conspiracy resulted in Mr. Justice being unlawfully arrested, detained, and subjected to a wrongful prosecution without reasonable and probable grounds or legal justification;
- (b) psychological and emotional harm – the conspiracy and its resulting unlawful conduct caused severe psychological distress, anxiety, and trauma, as Mr. Justice was subjected to persistent, coercive, and retaliatory legal processes;



- (c) reputational harm – the conspiracy resulted in public disgrace, reputational damage, loss of professional standing, and irreparable harm to Mr. Justice’s career, business, and personal relationships;
- (d) financial harm – as a direct and foreseeable consequence of the conspiracy, Mr. Justice suffered substantial financial losses, including legal expenses, lost income, business disruptions, and other economic damages;
- (e) foreseeability of harm – the harm suffered was the natural and probable result of the conspiracy, which was orchestrated with the intent to cause harm, to deter Mr. Justice from exposing police misconduct, and to suppress his legal rights through intimidation, wrongful prosecution, and abuse of state power; and
- (f) violation of *Charter* rights – the acts of conspiracy directly led to breaches of Mr. Justice’s rights under the *Charter*, including:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive freedoms, caused by the conspiratorial use of prosecutorial mechanisms as unlawful means to punish or silence Mr. Justice for publicly criticizing state misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through deprivation of liberty, psychological harm, and infringement of personal security, resulting from coordinated state conduct intended to inflict harm through abuse of legal process;

- (iii) section 8 (unreasonable search or seizure) – through unjustified and coordinated intrusions into privacy interests, caused by conspiratorial use of state mechanisms to seize or access personal information, devices, or records without lawful authority or justification;
- (iv) section 9 (arbitrary detention) – through unlawful restrictions on liberty and psychological detention, caused by the conspiratorial use of prosecutions or court process without legal justification;
- (v) section 11(d) (right to a fair trial) – through denial of procedural fairness, caused by coordinated efforts to obstruct disclosure, delay proceedings, or distort the adjudicative process in furtherance of unlawful conspiratorial objectives;
- (vi) section 12 (cruel and unusual treatment or punishment) – through prolonged psychological suffering and punitive legal pressure, inflicted by oppressive and coordinated state actions pursued beyond any lawful authority or purpose; and
- (vii) section 15 (equality rights) – through discriminatory and retaliatory treatment, caused by coordinated actions targeting Mr. Justice based on his identity as a public critic and civilian oversight actor, resulting in a denial of equal protection and benefit of the law.

## Damages

389. Mr. Justice claims damages for the harm suffered as a result of the unlawful means conspiracy directed, caused, or carried out by S/Sgt. Desjourdy and Det. White.

## Intimidation

### Unlawful Threats, Pressure, or Coercion

390. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman directed, caused, or carried out unlawful threats, undue pressure, or coercion against the Plaintiffs, leveraging their positions of power within law enforcement to intimidate, compel compliance, or silence lawful actions through improper means.

391. The intimidation consisted of one or more of the following:

- (a) threatening the Plaintiffs with unlawful consequences, including arrest, detention, prosecution, or legal sanction, unless they complied with demands that lacked legal basis or exceeded lawful authority;
- (b) exerting undue pressure or leveraging their public office to coerce the Plaintiffs into actions they were not legally obligated to take, including the misuse or abuse of legal authority to manufacture compliance;

- (c) issuing unlawful threats of legal sanction to force compliance, including pressuring Mr. Justice to sign an unlawful undertaking and prolonging his detention to exert psychological coercion;
- (d) engaging in coercion, intimidation, or retaliatory tactics beyond lawful authority, including conduct intended to instill fear of harm, retaliation, or punitive legal action without reasonable and probable grounds;
- (e) deliberately misusing legal processes or discretionary powers to intimidate, silence, or exert unlawful pressure, including manipulating legal procedures to achieve an improper advantage; and
- (f) any other acts or conduct demonstrating the use of intimidation to achieve an improper, collateral, or retaliatory purpose beyond legitimate law enforcement functions.

#### Intent to Intimidate and Improper Purpose

392. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman directed, caused, and carried out acts intended to intimidate the Plaintiffs into compliance or submission through improper and unlawful means.

393. Their improper intent is demonstrated by, but not limited to:

- (a) deliberately creating, fostering, or exploiting fear of harm, reprisal, or adverse legal consequences in a manner that exceeded lawful authority;

- (b) targeting the Plaintiffs with threats, coercion, or undue pressure beyond the scope of legitimate law enforcement or prosecutorial discretion;
- (c) acting with the intent to compel the Plaintiffs to act against their will, abandon their legal rights, or refrain from pursuing lawful recourse through intimidation or abuse of authority;
- (d) misusing their authority or public office to instill fear of consequences that were extraneous to any lawful or proper exercise of police discretion; and
- (e) any other acts demonstrating the deliberate use of intimidation for an improper, collateral, punitive, or retaliatory purpose.

#### Unlawful Means and Absence of Legal Justification

394. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman directed, caused, or carried out acts of intimidation against the Plaintiffs through unlawful means and without legal justification, including but not limited to:

- (a) threatening or undertaking actions known to be unlawful to compel compliance or deter the Plaintiffs from exercising legal rights;
- (b) using intimidation to interfere with the Plaintiffs' access to justice or due process, including obstructing proceedings, suppressing evidence, or applying undue pressure to achieve an improper outcome;

- (c) exceeding lawful authority by engaging in coercion, threats, or retaliatory measures that served no legitimate law enforcement or prosecutorial purpose;
- (d) knowingly misrepresenting legal authority, the consequences of noncompliance, or the legality of state actions to instill fear, induce submission, or suppress lawful opposition; and
- (e) engaging in any other acts of abuse of power, coercion, or unlawful intimidation that exceeded lawful authority and served an improper, punitive, or retaliatory purpose.

#### Causation and Foreseeability

395. As a direct and reasonably foreseeable consequence of the intimidation, coercion, and retaliatory acts directed, caused, or carried out by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, the Plaintiffs suffered severe and lasting harm, including but not limited to:

- (a) psychological and emotional trauma, including distress, fear, anxiety, and mental anguish resulting from sustained intimidation, threats of retaliation, and coercive tactics;
- (b) economic losses, including legal costs, lost income, and financial instability directly caused by intimidation tactics that interfered with the Plaintiffs' legal rights, professional standing, and financial security;

- (c) coerced actions against free will, where intimidation and coercion forced the Plaintiffs into decisions or conduct they would not have undertaken voluntarily, resulting in prejudice to their legal, financial, and personal interests;
- (d) reputational damage, including deliberate efforts to discredit, undermine credibility, and inflict reputational harm through threats, misinformation, and retaliatory accusations;
- (e) severe strain on personal, familial, and professional relationships, where sustained intimidation and coercion caused undue hardship, fear of further retaliation, and instability in personal and business affairs; and
- (f) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive activity on matters of public interest, caused by threats of prosecution, surveillance, and personal reprisal intended to silence public criticism of police and prosecutorial misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through psychological harm and erosion of liberty and personal security, caused by coercive and retaliatory tactics intended to instill fear and control behaviour in a manner contrary to the principles of fundamental justice;

- (iii) section 9 (arbitrary detention) – through psychological restraint and loss of perceived liberty, caused by threats of arrest, detention, or surveillance issued without lawful justification;
- (iv) section 12 (cruel and unusual treatment or punishment) – through serious psychological suffering and coercive pressure, caused by threats and intimidation deployed without lawful purpose and intended to inflict fear, distress, or submission through abuse of state authority; and
- (v) section 15 (equality rights) – through discriminatory and retaliatory treatment, caused by intimidation targeting the Plaintiffs’ role as civilian oversight actors and public critics of law enforcement, resulting in a denial of equal protection and benefit of the law.

## Damages

396. The Plaintiffs claim damages for the harm suffered as a direct and reasonably foreseeable consequence of intimidation, coercion, and retaliation, directed, caused, or carried out through threats of unlawful action made by S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman with the intent to instill fear, punish or silence dissent, suppress expression, interfere with lawful action, or compel compliance.



## **Intentional Infliction of Emotional Distress**

### **Extreme and Outrageous Conduct**

397. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman engaged in extreme, flagrant, and outrageous conduct, either intentionally or with reckless indifference to the severe emotional harm it would cause the Plaintiffs.

398. Their conduct exceeded all bounds of decency tolerated in a civilized society and included, but was not limited to:

- (a) deliberately engaging in coercive, degrading, or oppressive acts with the intent or reckless disregard that such conduct would cause severe emotional distress;
- (b) abusing their positions of authority to instill fear, intimidation, and humiliation in the Plaintiffs, despite lacking lawful justification for their actions;
- (c) directing, causing, or carrying out a sustained pattern of malicious, retaliatory, and punitive conduct designed to exert psychological control and inflict emotional suffering;
- (d) engaging in deception, misrepresentation, or manipulation to intensify the Plaintiffs' distress, fear, and emotional torment;
- (e) exploiting the Plaintiffs' vulnerable circumstances, including Mrs. Justice's high-risk pregnancy, with deliberate or reckless disregard for the serious risk of harm;

- (f) subjecting the Plaintiffs to persistent, unjustified, and excessive law enforcement scrutiny, including prolonged surveillance, baseless legal actions, and public humiliation, despite lacking any lawful foundation; and
- (g) any other deliberate, abusive, or oppressive actions calculated to cause or prolong emotional distress and inflict lasting psychological harm.

#### Intent or Reckless Disregard for Emotional Harm

399. S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman engaged in conduct with knowledge or reckless disregard that it would cause the Plaintiffs severe emotional and psychological distress.

400. Their intent or reckless disregard is demonstrated by, but not limited to:

- (a) engaging in a sustained pattern of intimidation, coercion, and abuse of power, knowing or being willfully blind to the Plaintiffs' psychological suffering;
- (b) deliberately misusing their positions of authority to instill fear, uncertainty, and prolonged distress, exploiting the Plaintiffs' vulnerability and lack of meaningful recourse;
- (c) persisting in wrongful conduct despite knowledge of the Plaintiffs' deteriorating mental health and the foreseeable harm their actions were inflicting;

- (d) targeting the Plaintiffs with fabricated allegations, baseless prosecutions, and oppressive state actions, intending to maximize psychological distress and emotional harm;
- (e) misusing legal and judicial processes to prolong the Plaintiffs' suffering, with knowledge that the Plaintiffs were being subjected to unjust proceedings without adequate recourse; and
- (f) engaging in any other deliberate or reckless conduct that foreseeably resulted in severe emotional and psychological harm.

#### Severe Emotional Distress Suffered by the Plaintiffs

401. As a direct and reasonably foreseeable consequence of the unlawful, egregious, and oppressive conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, the Plaintiffs suffered severe and enduring emotional distress, including but not limited to:

- (a) persistent and debilitating psychological trauma, including chronic anxiety, severe emotional suffering, and profound distress caused by targeted acts of oppression, intimidation, and abuse of authority;
- (b) sustained psychological and physiological harm, manifesting as severe depression, insomnia, panic attacks, and physical symptoms, arising from prolonged exposure to coercive, retaliatory, and malicious conduct;
- (c) irreparable reputational and social harm, including public disgrace, professional hardship, and lasting damage to credibility, resulting from publicized allegations

that tarnished the Plaintiffs' standing in their community and professional reputation, despite lacking any legitimate basis;

- (d) substantial financial and career consequences, including loss of business opportunities, irreversible career damage, and prolonged financial instability, directly attributable to the mental and emotional toll of the wrongful actions;
- (e) severe disruption to personal security and well-being, resulting in persistent distress, hypervigilance, and an ongoing fear of further unwarranted state interference; and
- (f) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive freedoms, caused by degrading or retaliatory conduct intended to punish the Plaintiffs for publicly criticizing police and prosecutorial misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through serious psychological harm intentionally or recklessly inflicted by state actors in a manner inconsistent with the principles of fundamental justice;
  - (iii) section 12 (cruel and unusual treatment or punishment) – through emotional suffering inflicted by abusive and oppressive conduct, known or intended to cause pain without any lawful purpose; and

- (iv) section 15 (equality rights) – through discriminatory and retaliatory treatment, caused by state conduct targeting the Plaintiffs based on their identity as whistleblowers and public critics, resulting in a denial of equal protection and benefit of the law.

#### Causation and Foreseeability

402. The severe emotional and psychological harm suffered by the Plaintiffs was a direct and proximate result of the extreme, flagrant, and outrageous conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman.

403. The distress suffered by the Plaintiffs was neither incidental nor trivial; rather, it was a foreseeable and inevitable consequence of conduct that was either:

- (a) intentionally directed at causing severe emotional distress, or
- (b) carried out with reckless indifference to the certainty that such harm would occur.

404. The wrongful conduct inflicted prolonged and extreme emotional distress of such intensity that no reasonable person could be expected to endure it.

#### Damages

405. The Plaintiffs claim damages for the severe emotional, psychological, and dignitary harm suffered as a direct and foreseeable consequence of the extreme, flagrant, and outrageous conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman.

## **Intrusion Upon Seclusion**

### **Unjustified Intrusion into Private Affairs**

406. S/Sgt. Desjourdy, intentionally or recklessly, engaged in or facilitated an unauthorized intrusion into the Plaintiffs' private affairs, seclusion, and confidential information, without lawful justification. The intrusion was deliberate, highly offensive to a reasonable person, and constituted a flagrant violation of the Plaintiffs' reasonable expectation of privacy.

407. The unlawful intrusion occurred through various means, including but not limited to:

- (a) directing, causing, or personally engaging in the unauthorized access, collection, review, or use of the Plaintiffs' private, confidential, or legally privileged information, absent lawful authority or a legitimate investigative purpose;
- (b) directing, instructing, causing, or facilitating surveillance, monitoring, or tracking of the Plaintiffs' movements, communications, or personal affairs beyond any lawful scope of police or prosecutorial authority;
- (c) interfering with the Plaintiffs' reasonable expectation of privacy in personal, financial, medical, or legally privileged matters, absent statutory, judicial, or common law authorization;
- (d) unlawfully searching, seizing, or directing the examination of the Plaintiffs' private communications, financial records, or other personal data for an improper, extraneous, or unauthorized purpose; and

- (e) engaging in any other deliberate, unjustified, and unauthorized invasion of privacy, contrary to statutory, common law, and constitutional protections governing the security of private information and personal autonomy.

#### Highly Offensive Nature of the Intrusion

408. The intrusion was deliberate, unauthorized, and egregiously invasive, constituting a serious and unwarranted violation of the Plaintiffs' privacy, dignity, and personal autonomy. The manner, scope, and circumstances of the intrusion exceeded any reasonable bounds of lawful or justifiable conduct, causing significant humiliation, emotional distress, and a profound loss of security and trust in public officials.

409. The gravity and offensiveness of the intrusion are demonstrated by, but not limited to:

- (a) the deeply personal, private, or sensitive nature of the information that was unlawfully accessed, used, or disclosed;
- (b) the breadth, scope, and duration of the intrusion, including any repeated, prolonged, or systematic violations;
- (c) the intentional, reckless, or high-handed manner in which the intrusion was directed, caused, or facilitated, including any abuse of authority, coercion, or retaliatory intent;
- (d) the absence of lawful authority, reasonable justification, or procedural safeguards to prevent or mitigate the intrusion;

- (e) the coercive, retaliatory, or punitive context of the intrusion, where state power was weaponized to intimidate, silence, or gain an improper advantage over the Plaintiffs, in direct violation of their fundamental rights;
- (f) the misuse of public office, law enforcement powers, or prosecutorial discretion to facilitate, enable, or justify the intrusion, undermining the rule of law and public trust; and
- (g) any other factors demonstrating a flagrant disregard for the Plaintiffs' fundamental rights, privacy, and dignity.

#### Causation and Foreseeability

410. As a direct and reasonably foreseeable consequence of the unlawful intrusion upon the Plaintiffs' privacy, the Plaintiffs suffered harm, including but not limited to:

- (a) severe psychological harm – including anxiety, emotional distress, and trauma caused by the unauthorized access, disclosure, and misuse of private information;
- (b) reputational damage – including harm to personal and professional relationships resulting from the unauthorized intrusion into their private affairs and the improper use or misrepresentation of such information in legal proceedings;
- (c) loss of dignity, autonomy, and privacy—causing profound humiliation, mental anguish, and an enduring fear of future surveillance, state intrusion, or misuse of personal information, creating a chilling effect on their personal and professional lives;



- (d) economic harm – including legal costs, expenses, and other financial losses incurred as a direct result of challenging the unlawful intrusion and seeking remedies for the breach of privacy;
- (e) compounding of harm – the unlawful intrusion and misuse of private information aggravated and prolonged the Plaintiffs’ psychological distress, reputational damage, and financial burden, exacerbating the malicious prosecution, wrongful detention, and reputational harm they suffered; and
- (f) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive activity on matters of public interest, caused by retaliatory intrusions into private affairs and monitoring of personal communications intended to punish or deter criticism of police misconduct;
  - (ii) section 7 (life, liberty, and security of the person) – through psychological harm and erosion of autonomy, caused by deliberate and unjustified privacy violations that undermined personal security, dignity, and mental integrity;
  - (iii) section 8 (unreasonable search or seizure) – through violation of reasonable expectations of privacy, caused by unauthorized access to personal information and private activity without lawful basis or judicial authorization;

- (iv) section 12 (cruel and unusual treatment or punishment) – through serious psychological suffering and humiliation, caused by abusive and retaliatory privacy intrusions carried out without lawful justification, with the purpose or effect of inflicting emotional harm through misuse of state power; and
- (v) section 15 (equality rights) – through discriminatory and retaliatory privacy intrusions, caused by targeting the Plaintiffs based on their identity as civilian oversight actors and public critics of law enforcement, resulting in a denial of equal protection and benefit of the law.

## Damages

411. The Plaintiffs claim damages for the harm suffered as a direct and reasonably foreseeable consequence of the unlawful intrusion upon their privacy, which was engaged in or facilitated by S/Sgt. Desjourdy in the course of his public office and under the colour of his authority.

## False Arrest and False Imprisonment

### Unlawful Arrest and Detention

412. S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman directed, caused, or carried out the unlawful arrest and detention of the Plaintiffs without lawful authority, reasonable and probable grounds, or justification at law.

413. False arrest and false imprisonment occurred on two separate occasions:

- (a) first arrest – on January 25, 2021, at 6045 Bank St. in Ottawa, Cst. Tessier and Cst. Nizman carried out the arrest and detention of Mr. Justice under the direction and authority of S/Sgt. Desjourdy; and
- (b) second arrest – on May 10, 2023, Mr. and Mrs. Justice were arrested and detained under the direction and authority of S/Sgt. Desjourdy. Mr. Justice was arrested at 7163 Parkway Rd. in Ottawa, while Mrs. Justice was arrested at 2589.

414. An arrest or detention is unlawful where:

- (a) there is no statutory or common law authority to arrest or detain;
- (b) there are no reasonable and probable grounds to believe the Plaintiffs committed an offence;
- (c) discretion is improperly exercised in determining whether arrest or detention was necessary, including where a less intrusive alternative was available or mandated by law;
- (d) statutory, common law, and constitutional safeguards governing arrest and detention are disregarded, misapplied, or violated;
- (e) the arrest or detention is carried out for an improper purpose, including as a means of intimidation, reprisal, personal or institutional retaliation, or oppression; and

- (f) any other circumstances demonstrating an absence of legal justification, including where the detention is arbitrary, excessive, or otherwise contrary to legal safeguards.

#### Unlawful Restraint and Deprivation of Liberty

415. S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman directed, caused, or carried out the unlawful restraint and deprivation of the Plaintiffs' liberty without lawful justification or reasonable and probable grounds, thereby violating their right to be free from arbitrary detention.

416. False imprisonment was carried out through, but not limited to:

- (a) directing, causing, or carrying out the physical restraint and detention of the Plaintiffs without lawful authority or legal justification;
- (b) detaining the Plaintiffs through the threat of force, coercion, or physical restraint, rendering them unable to leave or challenge their detention in accordance with their legal rights;
- (c) continuing the detention despite the absence of lawful grounds and despite knowing or recklessly disregarding that no reasonable justification existed for their continued restraint;
- (d) wrongfully depriving the Plaintiffs of their ability to exercise their legal rights, including access to legal counsel and the ability to challenge their detention in a timely and meaningful manner; and

- (e) engaging in any other conduct that resulted in the unjustified deprivation of the Plaintiffs' liberty, contrary to legal and constitutional protections.

#### Absence of Lawful Justification

417. At all material times, S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman directed, caused, or carried out the arrests and detentions of the Plaintiffs without lawful justification, as demonstrated by:

- (a) lack of lawful authority – no valid arrest warrant, statutory power, or common law basis existed to justify the arrests or detentions at the time they were carried out;
- (b) absence of reasonable and probable grounds – the arrests and detentions were not based on objectively sufficient evidence and lacked any honest belief grounded in reasonable suspicion or legal justification;
- (c) use of force, coercion, or intimidation without lawful basis – the application of physical force, threats, or coercive tactics to effect an arrest or prolong a detention without lawful necessity;
- (d) unlawful deprivation of liberty – the arrests or detentions were excessive, arbitrary, punitive, or extended beyond what was lawfully permissible; and
- (e) any other circumstances demonstrating the unlawfulness of the arrests and detentions – including where they were unlawful from the outset, became unlawful due to their continuation, or constituted an abuse of state authority.

### Causation and Foreseeability

418. As a direct and reasonably foreseeable consequence of the false arrests and false imprisonment, the Plaintiffs suffered harm, including but not limited to:

- (a) deprivation of liberty due to wrongful arrest, unlawful detention, and restriction of movement;
- (b) psychological harm, including anxiety, emotional distress, and trauma;
- (c) reputational harm, including damage to personal and professional reputation, loss of standing, and public disgrace;
- (d) financial harm, including legal fees, lost income, and other economic losses arising directly from the unlawful conduct;
- (e) intrusion upon privacy and dignity, including humiliation, loss of autonomy, and the distress of being subjected to unlawful state control; and
- (f) any other foreseeable consequences of the wrongful arrests and detentions, as will be further particularized in this proceeding.

### Violation of *Charter* Rights

419. The unlawful arrests and detentions directed, caused, and carried out by S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman violated the Plaintiffs' rights under the *Charter*, including but not limited to:

- (a) section 2(b) (freedom of expression) – through suppression of expressive activity on matters of public interest, caused by retaliatory arrests and detentions intended to silence or punish public criticism of police and prosecutorial misconduct;
- (b) section 7 (life, liberty, and security of the person) – through deprivation of liberty, personal security, and psychological integrity, caused by unlawful arrests and detentions carried out without justification and in breach of the principles of fundamental justice;
- (c) section 9 (arbitrary detention) – through unjustified and unlawful restraint, caused by detentions imposed without legal authority, reasonable grounds, or procedural safeguards;
- (d) section 10 (rights on arrest or detention) – through infringement of procedural protections, including:
  - (i) deprivation of the right to be promptly informed of the reasons for detention in a comprehensible manner; and
  - (ii) denial of the right to retain and instruct counsel without delay and to be provided a meaningful opportunity to do so;
- (e) section 12 (cruel and unusual treatment or punishment) – through serious psychological harm, coercive restraint, and degrading physical treatment inflicted in the course of unlawful arrests and detentions, without lawful justification or necessity; and

- (f) section 15 (equality rights) – through discriminatory and retaliatory treatment, caused by arrests and detentions targeting the Plaintiffs based on their identity as whistleblowers and civilian oversight actors, resulting in a denial of equal protection and benefit of the law.

## Damages

420. The Plaintiffs claim damages for the harm suffered as a result of the false arrests and false imprisonment directed, caused, and carried out by S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman.

## Trespass to Chattels

### Ownership or Possessory Interest

421. Mr. Justice was the lawful owner, possessor, or had an immediate and enforceable right to possession of the property that was unlawfully interfered with, including but not limited to:

- (a) a mobile device assigned the phone number ending in 6996, which was exclusively owned, possessed, and used by Mr. Justice for personal, professional, and legal purposes;
- (b) the digital data, business records, and confidential information stored within the seized device, including security keys and highly sensitive operational data essential to the ongoing operation of the Plaintiffs' business; and



- (c) any other personal property, digital records, or electronically stored data that was unlawfully accessed, copied, retained, or seized without lawful authority or justification.

#### Intentional Interference with Chattels

422. S/Sgt. Desjourdy directed, facilitated, or engaged in intentional interference with, unauthorized control over, and deprivation of Mr. Justice's lawful use and possession of his chattels, without consent, legal authority, statutory basis, or any legitimate exercise of police discretion.

423. The unlawful interference with chattels included, but was not limited to:

- (a) seizing, taking, or retaining possession of Mr. Justice's property in circumstances where no lawful authority, judicial authorization, or statutory basis existed, and where such conduct exceeded any lawful exercise of police discretion;
- (b) damaging, altering, tampering with, or otherwise exercising unauthorized control over Mr. Justice's chattels deliberately, recklessly, or without legal justification;
- (c) interfering with, obstructing, or preventing Mr. Justice from accessing, using, or enjoying his personal property, in the absence of any lawful justification or legal authority; and
- (d) engaging in any other direct or indirect interference that resulted in harm, deprivation, or unlawful disruption of Mr. Justice's lawful possession of his property.

## Unlawful Seizure of Mr. Justice's Mobile Device

424. S/Sgt. Desjourdy directed, facilitated, or engaged in the warrantless and unlawful seizure of Mr. Justice's mobile device, without judicial authorization, statutory authority, or lawful justification under the *Criminal Code* or the *Charter*.

425. Despite knowing or having reason to know that the seizure was unlawful, S/Sgt. Desjourdy ordered and carried it out, including but not limited to the following:

- (a) the device allegedly subject to seizure did not belong to Mr. Justice but rather to Mrs. Justice, whose mobile device was associated with a phone number ending in 9669;
- (b) instead of seizing the correct device, he wrongfully directed, caused, and facilitated the seizure of Mr. Justice's personal mobile device, which had a distinct phone number ending in 6996, was not connected to any lawful criminal investigation, and had no lawful basis for seizure; and
- (c) having been involved in prolonged legal proceedings against the Justices, he knew or ought to have known the distinction between the devices and that the seizure lacked any lawful foundation, amounting to an abuse of authority.

426. The warrantless and unlawful seizure constituted an unreasonable search and seizure, in violation of section 8 of the *Charter*, depriving Mr. Justice of his constitutional rights to privacy, security of property, and procedural fairness under the rule of law.

## Harm, Loss, or Deprivation

427. As a direct and reasonably foreseeable consequence of the wrongful interference with Mr. Justice's chattels, the Plaintiffs suffered harm, including but not limited to:

- (a) deprivation of use or temporary loss of access to the property, directly interfering with their personal lives, business continuity, and legal affairs, including the operation of their jointly managed enterprise;
- (b) physical damage to the chattels, necessitating repair, restoration, or replacement;
- (c) economic losses, including verifiable out-of-pocket expenses directly arising from the deprivation of access to the chattels and resulting operational disruptions affecting their business, legal, and financial transactions;
- (d) diminished value of the chattels due to unauthorized interference, tampering, or compromise of security and integrity;
- (e) compromised security systems, loss of access to critical business tools, and deprivation of essential legal and financial documents, directly impairing commercial operations and legal preparedness;
- (f) Mrs. Justice's inability to access business-critical assets, proprietary data, and operational tools essential to the management of their business, household, and professional affairs, materially obstructing her ability to fulfill essential responsibilities; and

- (g) any additional losses suffered by the Plaintiffs as a direct and foreseeable result of the interference, as will be further particularized in this proceeding.

#### Causation and Foreseeability

428. The wrongful seizure, deprivation, and unauthorized interference with Mr. Justice's chattels directly and foreseeably caused harm to the Plaintiffs, including but not limited to:

- (a) actual or constructive loss of property, preventing the Plaintiffs from possessing, controlling, or using the chattels for their intended purposes;
- (b) disruption of business, legal, and personal affairs, including loss of access to security credentials, essential legal materials, proprietary data, or critical communications vital to daily operations;
- (c) Mrs. Justice's inability to access business-critical property, security infrastructure, and proprietary data, resulting in financial hardship, economic loss, and operational inefficiencies;
- (d) financial burdens associated with repairing, replacing, or securing alternative solutions due to the interference, including heightened security costs, contractual penalties, and revenue disruptions; and
- (e) violations of their rights under the *Charter*, including breaches of:
  - (i) section 2(b) (freedom of expression) – through suppression of expressive activity on matters of public interest, caused by

interference with personal property used for oversight, documentation, and dissemination of speech critical of law enforcement conduct;

- (ii) section 7 (life, liberty, and security of the person) – through psychological harm, loss of autonomy, and coercive pressure, caused by unauthorized and retaliatory interference with personal effects in violation of the principles of fundamental justice;
- (iii) section 8 (unreasonable search or seizure) – through breach of reasonable expectations of privacy, caused by the unlawful seizure, access, or control of personal belongings without warrant, legal authority, or lawful justification;
- (iv) section 12 (cruel and unusual treatment or punishment) – through serious psychological harm, humiliation, and emotional coercion, caused by retaliatory and excessive interference with personal property carried out without lawful justification and for the purpose of inflicting hardship through abuse of state authority; and
- (v) section 15 (equality rights) – through discriminatory and retaliatory interference with property, caused by targeting the Plaintiffs based on their identity as whistleblowers and civilian oversight actors, resulting in a denial of equal protection and benefit of the law.

## Damages

429. The Plaintiffs claim damages for the wrongful interference with, unauthorized use of, and unlawful trespass upon Mr. Justice's chattels, caused by and directly resulting from S/Sgt. Desjourdy's unauthorized and wrongful actions.

## ***Charter* Violations and Liability**

### *Charter* Violations as Independent and Compensable Wrongs

430. The conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage resulted in direct breaches of the *Charter*, constituting independent and compensable constitutional wrongs under established public law principles.

431. These *Charter* breaches give rise to distinct, enforceable violations warranting damages under section 24(1) of the *Charter*, separate from and in addition to the damages claimed for common law torts.

### *Charter* Rights Violated

432. The actions and decisions of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directly caused and constituted breaches of the Plaintiffs' rights under the *Charter*, including but not limited to:

(a) Section 2(b) — Freedom of Expression

S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, authorized, caused, or carried out retaliatory conduct against the Plaintiffs by using the machinery of criminal prosecution, investigative authority, and judicial process to suppress their public criticism of police and prosecutorial misconduct, thereby infringing their expressive activity on matters of public accountability and violating their right to speak, advocate, and engage in civilian oversight without state reprisal;

(b) Section 7 – Life, Liberty, and Security of the Person

S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, caused, or carried out unlawful prosecutions, wrongful arrests, abusive legal tactics, and coercive state actions, directly and foreseeably depriving the Plaintiffs of their liberty and security of the person in a manner contrary to the principles of fundamental justice. These unjustified and oppressive state actions resulted in prolonged legal jeopardy, harm, and distress, infringing the Plaintiffs' *Charter*-protected rights;

(c) Section 8 – Protection Against Unreasonable Search and Seizure

S/Sgt. Desjourdy and A.C.A. Karimjee directed, authorized, or caused searches, seizures, or the acquisition of evidence that were unauthorized, warrantless, or otherwise unlawful, infringing upon the Plaintiffs' reasonable expectation of

privacy in their person, property, and effects. These actions exceeded lawful investigative powers and constituted an arbitrary state intrusion, contrary to section 8 of the *Charter*;

(d) Section 9 – Arbitrary Detention or Imprisonment

S/Sgt. Desjourdy, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, authorized, or carried out arbitrary arrests and detentions without lawful justification. The Plaintiffs were unlawfully restrained, both physically and psychologically, in violation of their constitutional right to be free from unjustified state detention. These arrests and detentions lacked reasonable and probable grounds and were undertaken for improper, punitive, or retaliatory purposes;

(e) Section 10 – Rights Upon Arrest or Detention

S/Sgt. Desjourdy, Cst. Tessier, and Cst. Nizman directed, caused, or carried out the unlawful arrest and detention of Mr. Justice while failing to promptly inform him of the reasons for his detention, his right to counsel, and his right to retain and instruct counsel without delay. They further failed to facilitate meaningful access to legal representation, depriving Mr. Justice of his ability to exercise his constitutional rights. These violations of section 10 of the *Charter* denied Mr. Justice the procedural protections necessary to make informed legal choices and effectively respond to state action;



(f) Section 11 – Legal Rights in Criminal and Quasi-Criminal Proceedings

S/Sgt. Desjourdy, Det. White, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, caused, and carried out unjustified prosecutions, engaged in bad faith litigation tactics, and engaged in legal misconduct that violated the Plaintiffs’ rights under section 11 of the *Charter*. These breaches deprived the Plaintiffs of fundamental procedural protections, including: denying the right to a fair trial, engaging in prosecutions that contravened due process, causing undue delay in the administration of justice, and pursuing charges without lawful basis for improper purposes. These actions subverted the rule of law, obstructed the Plaintiffs’ ability to receive a fair hearing, and constituted a misuse of state power contrary to section 11 of the *Charter*;

(g) Section 12 – Cruel and Unusual Treatment or Punishment

S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, caused, or carried out coercive legal tactics, prolonged wrongful detention, and prosecutorial abuse, subjecting the Plaintiffs to cruel and unusual treatment in violation of section 12 of the *Charter*. Their conduct far exceeded any lawful authority and was grossly disproportionate to any legitimate law enforcement or prosecutorial objective. The prolonged psychological harm, undue suffering, and inhumane state-imposed distress inflicted upon the Plaintiffs was foreseeable, deliberate, and incompatible with the fundamental principles of justice; and

(h) Section 15 – Equality Before and Under the Law

S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage directed, caused, or carried out selective enforcement, differential treatment, and improper legal targeting, depriving the Plaintiffs of equal protection and benefit of the law. The state actions taken against the Plaintiffs were arbitrary, lacked a lawful foundation, and resulted in a discriminatory impact, thereby contravening section 15 of the *Charter* and denying the Plaintiffs substantive equality before and under the law.

Public Law Damages Under Section 24(1) of the *Charter*

433. The Plaintiffs seek constitutional damages pursuant to section 24(1) of the *Charter* as a just and appropriate remedy for the state misconduct and constitutional violations that directly resulted in their harm.

434. *Charter* damages serve fundamental public law objectives, including:

- (a) compensation – to redress both tangible and intangible harm suffered as a direct result of the constitutional breaches, including deprivation of liberty, psychological harm, and reputational damage;
- (b) vindication – to reinforce the primacy of constitutional rights, ensuring that state actors are held accountable and that serious rights violations do not go without redress; and

- (c) deterrence – to discourage future violations by imposing financial consequences on state actors who engage in unlawful and unconstitutional conduct.

435. The quantum of *Charter* damages should be assessed based on the following factors:

- (a) the severity of the constitutional violations, including the number of breaches and their cumulative effect;
- (b) the gravity of the state misconduct, including whether the violations were deliberate, reckless, or systemic;
- (c) the harm suffered by the Plaintiffs, including the psychological, financial, and personal consequences resulting from the breaches; and
- (d) the broader public interest, including the need to deter future state misconduct and reinforce the rule of law.

#### Causation and Foreseeability

436. The deliberate and unlawful conduct, including arbitrary detention, wrongful arrest, and bad faith prosecution, directly and foreseeably caused harm to the Plaintiffs, including but not limited to:

- (a) deprivation of liberty through unlawful detention, wrongful arrest, and prosecution pursued in bad faith, violating the right to liberty under section 7 of the *Charter*;

- (b) severe psychological harm, including anxiety, emotional distress, and trauma, caused by prolonged, unjust, and coercive legal proceedings, violating security of the person under section 7 and amounting to cruel and unusual treatment under section 12;
- (c) infringement of the Plaintiffs' procedural and constitutional rights, violating fundamental justice and causing direct harm, including:
  - (i) freedom from unlawful search and seizure (section 8);
  - (ii) the right to be free from arbitrary detention (section 9);
  - (iii) the right to know the reasons for arrest and to retain and instruct counsel (section 10); and
  - (iv) the right to be tried within a reasonable time (section 11);
- (d) severe reputational harm, including public disgrace, damage to career, and loss of standing, directly resulting from wrongful state action, abuse of legal processes, and prosecutorial misconduct, violating principles of fundamental justice under section 7;
- (e) significant financial harm, including excessive legal fees, lost income, and economic losses, directly caused by the Plaintiffs' forced involvement in abusive legal proceedings and state misconduct;

- (f) intrusion upon privacy and dignity, including unlawful searches, improper seizure of personal records, and coercive investigatory tactics, violating section 8 of the *Charter*;
- (g) targeted and discriminatory treatment, subjecting the Plaintiffs to differential and unjust treatment under the law, violating their right to equality before and under the law under section 15 of the *Charter*;
- (h) irreparable strain on family relationships, social standing, and professional reputation, resulting in pervasive and long-term consequences beyond immediate reputational harm, exacerbating the psychological and economic consequences of the state's misconduct; and
- (i) any other harms or *Charter* breaches reasonably foreseeable as a consequence of the state's unlawful and unconstitutional conduct, as will be further particularized in this proceeding.

#### Damages

437. The Plaintiffs claim constitutional damages pursuant to section 24(1) of the *Charter* as a direct and reasonably foreseeable consequence of the unlawful and unconstitutional violations of their *Charter* rights by S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage.

## **Vicarious Liability**

438. OPSB is vicariously liable for the unlawful acts and omissions of its officers, including but not limited to S/Sgt. Desjourdy, Det. White, Cst. Tessier, and Cst. Nizman, who engaged in wrongful conduct in the course of their employment as sworn members of the Ottawa Police Service.

439. OPSB bears vicarious liability for the tortious conduct of its officers, as their wrongful acts and omissions were:

- (a) directed, authorized, or enabled within the scope of their employment, authority, and operational duties as police officers;
- (b) sufficiently connected to their assigned law enforcement functions, such that the risk of the wrongful acts was a foreseeable consequence of the duties, authority, and discretion conferred upon them in their employment;
- (c) carried out under the ostensible authority of OPSB's policing mandate, even if executed in an unauthorized, improper, or unlawful manner;
- (d) enabled, facilitated, or failed to prevent due to OPSB's operational control, systemic deficiencies, policy failures, or lack of adequate oversight, such that its omissions directly contributed to the wrongful conduct and harm suffered by the Plaintiffs; and

- (e) otherwise sufficient to establish vicarious liability at law, as will be further particularized in these proceedings.

440. OPSB is vicariously liable for all tortious conduct committed by sworn members of the Ottawa Police Service set out in this claim, including but not limited to:

- (a) malicious prosecution;
- (b) misfeasance in public office;
- (c) abuse of process;
- (d) intimidation;
- (e) unlawful means conspiracy;
- (f) negligent investigation;
- (g) negligence;
- (h) intentional infliction of emotional distress;
- (i) intrusion upon seclusion;
- (j) false arrest;
- (k) false imprisonment;
- (l) trespass to chattels;
- (m) any additional or related wrongful acts or omissions, whether pleaded explicitly or arising from the factual matrix of this claim, committed by members of the Ottawa Police Service in the execution of their duties.

## Statutory Liability

### Liability of the Attorney General

441. The Attorney General is statutorily liable for the unlawful acts, omissions, and breaches of duty committed by its Crown prosecutors, including but not limited to A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, who engaged in wrongful conduct in the course of their prosecutorial duties and under the delegated authority of the Attorney General.

### Liability of the Crown

442. The Crown is directly liable for the unlawful conduct of the Attorney General and its Crown prosecutors, including A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, arising from their tortious conduct in the course of their prosecutorial duties and pursuant to the *Crown Liability and Proceedings Act*.

443. The Crown is both statutorily and vicariously liable for the tortious acts and omissions of its Crown prosecutors as pleaded in this claim, including but not limited to:

- (a) malicious prosecution;
- (b) misfeasance in public office;
- (c) abuse of process (prosecutorial);
- (d) all wrongful acts, omissions, or breaches of duty by prosecutors, including negligent or reckless conduct coupled with bad faith, malice, or improper purpose.



## Joint and Several Liability

444. The Plaintiffs claim damages against all named parties, jointly and severally, or against any one of them individually, for the full extent of the harm suffered as set out in this claim.

## VI. DISCOVERABILITY

### Discovery of the Causes of Action

445. The Plaintiffs did not discover and could not have discovered, through the exercise of reasonable diligence, the existence of their claims until May 28, 2024, when the underlying criminal proceedings were terminated in their favour.

446. Until May 28, 2024, the Plaintiffs were legally precluded from fully pursuing their civil claims due to ongoing criminal proceedings, where the lawfulness of police and prosecutorial conduct remained a live and unresolved issue. The facts necessary to ground the Plaintiffs' causes of action were not fully known nor reasonably discoverable until the conclusion of those proceedings.

### Discoverability and the *Limitations Act*, 2002

447. Pursuant to section 5(1) of the *Limitations Act*, 2002, S.O. 2002, c. 24, Sched. B ("***Limitations Act***"), a claim is discovered when the claimant knew or ought to have known that:

- (a) the injury, loss, or damage had occurred;

(b) the injury, loss, or damage was caused by the act or omission of the party being sued; and

(c) a proceeding was legally appropriate to seek a remedy.

448. Section 5(2) of the *Limitations Act* presumes that a claim is discovered on the date of the act or omission giving rise to the cause of action, unless the claimant rebuts this presumption by demonstrating that discovery occurred at a later date.

#### Rebutting the Presumption of Discoverability for False Arrest and False Imprisonment

449. The presumption under section 5(2) is rebutted for false arrest and false imprisonment, as common law recognizes earlier presumptive crystallization dates. Nonetheless, the Plaintiffs could not have reasonably discovered their claims before May 28, 2024, when the Crown stayed proceedings.

450. The following legally recognized factors establish delayed discoverability:

(a) The Existence of a Live Legal Dispute

at the time of Mr. Justice's arrest and detention on January 25, 2021, and at the time of both Plaintiffs' arrests on May 10, 2023, the lawfulness of police conduct was a live issue in ongoing criminal proceedings. Asserting a civil claim before the conclusion of the criminal process would have been premature, as the factual and legal foundation of the claim had not yet been established;

(b) The Pending *Charter* Challenge

the Plaintiffs had scheduled a *Charter* challenge from August 26–30, 2024, in which officers involved in the arrests and detentions were subpoenaed to testify. The challenge sought a judicial determination that the arrests were unlawful. A ruling in the Plaintiffs’ favour would have been determinative of the elements of false arrest and false imprisonment;

(c) The Crown’s Termination of the Prosecution Crystallized the Claim

on May 28, 2024, the Crown entered a stay of proceedings under section 579 of the *Criminal Code*, preventing adjudication of the *Charter* challenge. This stay of proceedings marked the first moment the Plaintiffs could reasonably conclude that a complete and actionable civil claim had crystallized, as the criminal process had previously foreclosed full discovery of their legal rights;

(d) Discoverability Delayed by the Interplay Between Criminal and Civil Proceedings

the Supreme Court of Canada has held that where the viability of a civil cause of action is contingent on the resolution of related criminal proceedings, the limitation period may not commence until those proceedings are concluded. Here, the Plaintiffs’ ability to assert their civil claim was directly linked to the pending *Charter* challenge and its potential findings;

(e) The Crown's Position Reinforced the Delayed Discoverability

the Crown reviewed the arrests and detentions and deemed them justified, requiring the Plaintiffs to challenge their lawfulness through *Charter* applications and testimony from police officers. The Plaintiffs could not have reasonably known they had a complete cause of action until the proceedings ended, and the anticipated judicial determinations were preempted by the stay of proceedings;

(f) The Crown's Use of Section 579 to Shield Police Liability

the Crown's unilateral decision to stay proceedings under section 579 should not be permitted to artificially accelerate the limitation period. The lawfulness of the Plaintiffs' arrest and detention was actively contested, and the termination of proceedings was the first moment the Plaintiffs could reasonably conclude that they had a complete and actionable claim;

(g) False Arrest and False Imprisonment Are Inextricably Linked to Other Claims

false arrest and false imprisonment formed the foundation of related claims, including malicious prosecution, misfeasance in public office, abuse of process, and intimidation. Courts have held that where multiple causes of action arise from a shared factual matrix, the limitation period should not be artificially fragmented. Given that the other causes of action were not discoverable until the termination of the charges on May 28, 2024, and these claims are factually and legally intertwined, the same limitation period applies; and

(h) Concealment and Systemic Hindrance of the Plaintiffs' Ability to Bring a Claim

the claims for malicious prosecution, misfeasance in public office, abuse of process, and abuse of process (prosecutorial) include allegations that active steps were taken to prevent the Plaintiffs from asserting a cause of action. These actions included:

- (i) concealing exculpatory material;
- (ii) hindering disclosure of key evidence; and
- (iii) engaging in tactics that obstructed the Plaintiffs' ability to form the basis of a civil claim.

Rebuttal of Presumptive Discovery Date for First Arrest

451. The presumptive discovery date for Mr. Justice's first arrest on January 25, 2021, does not apply, as it is rebutted on the following legal grounds:

- (a) the lawfulness of his arrest and detention remained a live issue throughout the criminal process;
- (b) the pending *Charter* challenge was an essential step in establishing the claim; and
- (c) the Crown's use of section 579 to stay proceedings does not bar or artificially accelerate the limitation period for false arrest and false imprisonment, as those claims were legally and factually bound to the ongoing criminal litigation.

### Timeliness of the Second Arrest and All Other Claims

452. The presumptive date for the second arrest and detention is May 12, 2023, and this claim is therefore timely under section 4 of the *Limitations Act*.

453. For greater certainty, the Plaintiffs plead that all other causes of action—including but not limited to malicious prosecution, misfeasance in public office, abuse of process, abuse of process (prosecutorial), intimidation, unlawful means conspiracy, negligent investigation, negligence, intentional infliction of emotional distress, intrusion upon seclusion, and trespass to chattels—were commenced within the applicable two-year limitation period of the presumptive date of discovery.

454. Accordingly, the Plaintiffs' entire claim, including all tort and *Charter* causes of action, is properly commenced within the applicable two-year limitation period under section 4 of the *Limitations Act*. No portion of the claim is time-barred, and the limitation period was not engaged until May 28, 2024.

## VII. HARM AND DAMAGES

455. As a direct, foreseeable, and legally compensable consequence of the wrongful acts, omissions, breaches of duty, and abuses of authority that were committed, directed, caused, or facilitated by S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage—each acting under colour of authority and in their official capacities—the Plaintiffs have suffered, and will continue to suffer, severe, enduring, and irreparable harm, including but not limited to:

### Psychological and Emotional Harm

- (a) profound psychological distress, including shock, trauma, and emotional instability;
- (b) persistent depression, anxiety, and post-traumatic stress symptoms, resulting in severe impairment;
- (c) acute and chronic emotional suffering, including suicidal ideation, panic attacks, and intrusive thoughts;
- (d) worsening of pre-existing psychiatric conditions or development of new, clinically diagnosed psychiatric disorders;
- (e) necessity for prolonged or indefinite psychiatric and psychological intervention, including medical treatment, therapy, and counselling;

### Interference with Personal and Family Life

- (f) impaired ability to engage in family affairs and maintain relationships;
- (g) alienation from family, friends, and social networks;
- (h) loss of companionship, affection, and emotional support;
- (i) diminished capacity to engage in recreational, cultural, and social activities;
- (j) loss of trust in others and impaired ability to sustain personal relationships;

- (k) loss of faith in persons in positions of authority;

#### Reputational and Professional Harm

- (l) severe reputational harm, including irreparable damage to professional standing and public perception;
- (m) destruction of career trajectory, including job loss, missed promotions, and diminished earning potential;
- (n) loss of business, clients, and professional licensing risks;
- (o) permanent stigma, rendering the Plaintiffs unemployable or damaging their ability to rebuild their career;
- (p) sustained harm to credibility, integrity, and professional reputation in their field or community;

#### Financial and Economic Losses

- (q) loss of income, wages, and career earnings due to wrongful conduct;
- (r) permanent or long-term impairment of earning capacity and professional opportunities;
- (s) destruction of business revenue, contracts, and investment potential;



- (t) excessive legal costs, debt accumulation, and severe financial hardship;
- (u) ongoing medical, psychiatric, and therapy expenses, including costs of prescription medications, treatments, and rehabilitation;

Physical and Personal Harm

- (v) physical pain, suffering, or injury;
- (w) inability or failure to access medical care or delay in treatment;
- (x) severe pain, suffering, and physical symptoms arising from psychological distress, including insomnia, chronic fatigue, and panic-induced somatic symptoms;
- (y) loss of liberty, personal security, and bodily integrity due to wrongful arrest, unlawful detention, and coercive state action;
- (z) systematic dehumanization, including humiliation, strip searches, or unnecessary force;
- (aa) destruction of self-worth, dignity, and ability to function in daily life;
- (ab) permanent or long-term impairment to personal autonomy, well-being, and mental health recovery; and
- (ac) loss of enjoyment of life or physical function.

## **Non-Pecuniary Damages**

### **The Permanent Consequences of the Prolonged State-Orchestrated Persecution**

456. The Plaintiffs endured a prolonged state-orchestrated persecution, spanning years of baseless and oppressive criminal litigation. They were compelled to abandon their identities, live under constant fear for their lives, and endure total isolation from family, friends, and their community, all while defending themselves against a calculated misuse of the criminal justice system. The wrongful conduct inflicted severe, irreparable harm, violating their fundamental rights, eroding their sense of self, and dismantling their personal, professional, and emotional stability.

457. The relentless criminal proceedings irreversibly altered the Plaintiffs' identities. They were not merely forced to adapt to adversity—they were compelled to reconstruct their entire existence, developing new identities and skill sets, not as a choice, but as an absolute necessity for survival. Even with the termination of the criminal proceedings, they remain irrevocably changed. The individuals they were before these unlawful acts no longer exist, having been permanently replaced by individuals conditioned to anticipate threats, distrust institutions, and endure the lasting stigma of their unwarranted ordeal.

### **Psychological Trauma and Constant Fear**

458. The psychological damage inflicted upon the Plaintiffs is severe, enduring, and permanent. The profound trauma of being subjected to a sustained campaign of legal persecution, carried out by state actors entrusted with upholding the rule of law, has resulted in incalculable emotional and psychological injuries. The Plaintiffs continue to bear the deep

psychological scars of years of unjustified scrutiny, public vilification, and calculated efforts to discredit and destroy their lives. They live with chronic hypervigilance, pervasive anxiety, and an enduring distrust of institutions—consequences that cannot be undone by the mere conclusion of the proceedings.

459. The Plaintiffs spent years under the reasonable and justifiable belief that their lives were in imminent danger—a belief grounded in real threats, intimidation, and legal persecution at the hands of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage. Their fears were not speculative; they were borne out of sustained, calculated, and demonstrable acts of reprisal. The gravity of this fear was so overwhelming that the Plaintiffs were forced to make contingency arrangements for their children in the event of their premature deaths—an unimaginable burden that no individual should ever be forced to bear, particularly at the hands of those sworn to protect the public.

#### Real-World Impact on Daily Life

460. The psychological torment inflicted upon the Plaintiffs extended into every aspect of their lives. When Mr. Justice sustained a serious arm fracture, his overpowering fear of seeking medical treatment—concerned that he might be exposed to individuals seeking to do him harm—outweighed even his immediate need for urgent medical care. Rather than risk his safety, he treated the injury himself at home, enduring immense pain and the risk of permanent complications. This act was not an overreaction or paranoia; it was the tragic and extraordinary consequence of the systemic abuse he endured—a testament to the profound and lasting harm inflicted upon him.

461. The state-orchestrated persecution and its associated stigma forced the Plaintiffs into total social isolation. For years, they were unable to see family or friends, severing the most fundamental relationships that define human existence. The constant legal battles consumed every moment of their time, every ounce of their energy, and every facet of their lives, leaving no room for personal connections, normalcy, or healing. Even after their exoneration, the damage cannot be undone—their relationships remain fractured, and the social exile imposed upon them has permanently severed ties that once provided essential emotional support.

#### Extreme Measures Taken to Avoid Retaliation

462. In a desperate attempt to protect himself and Mrs. Justice from further reprisal, Mr. Justice was compelled to establish connections with hundreds of past and present members of the Ottawa Police Service. These connections were not pursued voluntarily, but under duress—borne of an ongoing and well-founded fear that animosity from key actors in the prosecution could incite retaliatory conduct by others within the service. The fact that such measures became necessary to mitigate the risk of continued misconduct stands as a profound indictment of the hostile and coercive environment in which the Plaintiffs were forced to exist. No individual should ever be placed in a position where their safety depends on appeasing those once responsible for their persecution.

#### Irreparable Professional Harm

463. The wrongful prosecution and its surrounding misconduct devastated the Plaintiffs' professional reputations, irreversibly tarnishing the trust, integrity, and credibility they spent years cultivating. As successful entrepreneurs, their livelihoods depended on public confidence,

industry relationships, and an unblemished reputation. The mere fact of being criminally charged—even when baseless—left an indelible stain on their credibility, one that cannot be easily erased. In today's interconnected world, reputational damage is permanent, and the Plaintiffs continue to face skepticism, professional isolation, and economic harm long after the wrongful proceedings ended.

#### Forced Legal Expertise as a Survival Mechanism

464. The prolonged state-orchestrated persecution forced the Plaintiffs into an involuntary transformation, compelling them to become experts in criminal, constitutional, and procedural law—not as an academic pursuit, but as a desperate means of self-preservation. The extraordinary self-education they underwent—so remarkable that judicial officials themselves acknowledged and commended their expertise, even offering a law school referral—is a damning testament to the grotesque injustice they endured. This was not an opportunity but an obligation—an insurmountable burden thrust upon them by state misconduct, consuming years of their lives, shattering their financial security, and extracting an immense psychological toll.

#### A Life Permanently Changed

465. Despite the formal termination of the proceedings, the Plaintiffs remain trapped in the enduring aftermath of this profound injustice. They cannot return to their former lives, nor can they reclaim what was unjustly taken from them. Their relationships remain irreparably damaged, their reputations forever altered, and their sense of personal security irrevocably destroyed. What was taken from them can never be fully restored.

## **Pecuniary Damages**

466. The Plaintiffs have suffered and will continue to suffer significant pecuniary losses, the full particulars of which will be provided prior to trial. These financial damages stem directly from their forced withdrawal from business operations, lost income, lost investment opportunities, home devaluation, legal and medical expenses, and other quantifiable financial harm.

### **Loss of Income and Business Disruption**

467. The prolonged state-orchestrated persecution forced the Plaintiffs to step away from their obligations with CEPC for 40 months, requiring them to devote their full time and energy to defending against wrongful criminal proceedings. This disruption resulted in a combined loss of dividend income totaling \$1,694,000.00 (one million six hundred ninety-four thousand dollars).

468. Before the unlawful investigation and ensuing criminal litigation, the Plaintiffs were highly successful entrepreneurs who relied on substantial dividend income to sustain their standard of living, support their family, and maintain their business investments. The prolonged legal battle robbed them of this financial stability, inflicting devastating economic harm that extends far beyond the initial 40-month period.

### **Property Devaluation and Financial Strain**

469. As a direct result of being forced to divert their time, energy, and resources toward defending themselves, the Plaintiffs were unable to maintain their high-value home, leading to significant physical deterioration and devaluation of the property. The inability to afford

necessary repairs and upkeep led to a state of disrepair, representing both a substantial financial loss and an emotional toll. The estimated cost to restore the property now stands at \$444,950.00 (four hundred forty-four thousand nine hundred fifty dollars).

#### Loss of Business Expansion Opportunity – The P.E.O. Acquisition

470. The Plaintiffs also suffered a catastrophic loss of a once-in-a-lifetime business opportunity as a direct result of their wrongful prosecution.

471. During the course of the wrongful proceedings, the Plaintiffs, through CEPC, were in the process of acquiring P.E.O., a key competitor, which had been placed into interim receivership. At that time, Mr. Justice was the only serious and qualified purchaser, possessing the necessary licences, expertise, and financial capability to secure the acquisition.

472. However, as the wrongful prosecution continued to unfold, the ongoing criminal proceedings directly interfered with Mr. Justice's ability to complete the transaction. The uncertainty and reputational damage resulting from the prosecution deterred investors and financial partners, preventing Mr. Justice from securing the necessary capital in time to finalize the purchase.

473. With no other viable buyers, P.E.O. ultimately went bankrupt, eliminating a rare and irreplaceable opportunity for CEPC to expand its operations and secure an additional \$13,900,000.00 (thirteen million nine hundred thousand dollars) in gross profit. This financial devastation underscores the extensive business harm inflicted upon the Plaintiffs, depriving them of a major competitive advantage in their industry and significantly impairing their professional trajectory.

### Additional Economic Losses and Expenses

474. As self-employed business owners, the Plaintiffs have suffered significant lost revenue, bad debt accumulation, and long-term financial instability due to their forced withdrawal from CEPC operations. The full particulars of these ongoing and future economic losses will be provided prior to trial.

475. The Plaintiffs have incurred and will continue to incur substantial legal disbursements, medical expenses, and other out-of-pocket costs resulting directly from the state-orchestrated persecution against them. The full particulars of these financial burdens will be provided prior to trial.

### **Punitive Damages**

476. The conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, as particularized throughout this claim, was highly reprehensible, malicious, oppressive, callous, flagrant, and high-handed. Their actions constituted a marked and deliberate departure from the fundamental principles of justice, fairness, and the rule of law.

477. Punitive damages are warranted where a defendant's conduct is so egregious that it offends the court's sense of decency and is deserving of retribution, denunciation, and deterrence. The actions of the individuals named above meet and exceed this standard. Their conduct:



- (a) demonstrated a reckless disregard for the Plaintiffs' rights, liberty, and dignity;
- (b) involved the abuse of state power to target and destroy the Plaintiffs' reputations, livelihoods, and well-being;
- (c) included acts that were calculated, systemic, and motivated by improper purposes; and
- (d) was carried out with full knowledge of the harm it would inflict, without justification or lawful authority.

#### The Court's Role in Denunciation and Deterrence

478. This Honourable Court has a duty to uphold the fundamental principles of justice and affirm that the weaponization of state power against innocent individuals will not be tolerated in a free and democratic society. The Supreme Court of Canada has consistently affirmed that punitive damages serve the dual purpose of deterrence and denunciation where compensatory damages alone are insufficient to express society's condemnation of such misconduct.

479. The conduct at issue in this case represents a gross abuse of prosecutorial and police authority that must be met with a clear and unequivocal judicial response. To allow such misconduct to go unchecked would undermine public confidence in the administration of justice and signal to future bad actors that such abuses may be carried out with impunity.

480. Justice demands that those responsible be held fully accountable for the irreparable harm they have caused. The malice and egregiousness of their actions warrant the imposition of

punitive damages, not only to punish past misconduct but to ensure that such flagrant abuses of power are never repeated.

### Quantum of Punitive Damages

481. The Plaintiffs plead that punitive damages in the amount of \$1,000,000.00 (one million dollars) are warranted in this case. This amount is:

- (a) proportionate to the gravity of the misconduct and its devastating impact on the Plaintiffs;
- (b) necessary to achieve the objectives of deterrence and denunciation; and
- (c) consistent with the well-established principles set out in the jurisprudence governing punitive damages in Canada.

482. The imposition of punitive damages will send a clear and unequivocal message: abuses of power that violate the fundamental rights of individuals will not be tolerated, excused, or ignored.

### Aggravated Damages

483. The conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage, as particularized throughout this claim, was egregious, malicious, and oppressive. Their actions were carried out with deliberate intent to cause harm to the Plaintiffs and with reckless disregard for their dignity,

mental well-being, and emotional security. This conduct exacerbated the impact of the unlawful actions, warranting recognition through an award of aggravated damages.

484. Aggravated damages are warranted where the nature of the misconduct amplifies the harm suffered by a plaintiff, particularly where the defendant's actions were high-handed, motivated by malice, or involved an abuse of power. The misconduct in this case meets and exceeds this standard.

485. The Plaintiffs suffered severe and prolonged emotional, psychological, and reputational harm due to the calculated, oppressive, and abusive conduct of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage. This included:

- (a) humiliation and degradation—being falsely portrayed as criminals and enduring public vilification;
- (b) prolonged emotional distress—experiencing constant fear, uncertainty, and reputational harm due to malicious prosecution and deliberate state-inflicted hardship; and
- (c) breach of trust and abuse of power—suffering harm at the hands of state actors entrusted with enforcing the law, who instead weaponized their authority.

#### Exacerbation of Harm Through Abuse of Power

486. The courts have consistently recognized that where an abuse of power or breach of trust intensifies the harm suffered, aggravated damages are appropriate. The misconduct in this case

was not only unlawful but calculated, intentional, and aimed at inflicting maximum harm on the Plaintiffs.

487. The worsened suffering of the Plaintiffs arose directly from the misuse of state power, making this case an exemplar of the circumstances in which aggravated damages must be awarded. The emotional and psychological injuries they suffered were not the ordinary consequences of legal misconduct but were heightened by the deliberate and oppressive actions of S/Sgt. Desjourdy, Det. White, Cst. Tessier, Cst. Nizman, A.C.A. Farrell, D.C.A. Holmes, A.C.A. Rodgers, A.C.A. Karimjee, and A.C.A. Savage.

#### Quantum of Aggravated Damages

488. The Plaintiffs plead that aggravated damages in the amount of \$1,000,000.00 (one million dollars) are warranted in this case. This amount is:

- (a) proportionate to the gravity of the misconduct and the amplified harm suffered by the Plaintiffs;
- (b) necessary to recognize the additional emotional and psychological harm that exceeds ordinary compensatory damages; and
- (c) consistent with the well-established legal principles governing aggravated damages in Canada.

489. The imposition of aggravated damages will affirm that state actors who weaponize their authority to inflict harm will be held to the highest standard of accountability. The law must

recognize and redress the additional harm caused when individuals in positions of trust use their power to intentionally inflict suffering on those they are sworn to protect.

## VIII. OTHER

490. Unless the context clearly indicates otherwise, the words “including” and “included,” as used in this Statement of Claim, shall be interpreted to mean “including, but not limited to” and “included, but not limited to,” respectively.

491. Headings in this Statement of Claim are provided solely for ease of reference and readability. The material facts supporting a cause of action or issue are pleaded throughout the document, and their relevance is not confined to the headings under which they may appear.

## IX. RELEVANT STATUTES

492. The Plaintiffs plead and rely upon the provisions of the following statutes, regulations, and legal instruments:

- (a) *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- (b) *Crown Liability and Proceedings Act*, 2019, S.O. 2019, c. 7, Sched. 17;
- (c) *Limitations Act*, 2002, S.O. 2002, c. 24, Sched. B;
- (d) *Ministry of the Attorney General Act*, R.S.O. 1990, c. M.17;
- (e) *Crown Attorneys Act*, R.S.O. 1990, c. C.49;
- (f) *Negligence Act*, R.S.O. 1990, c. N.1;

- (g) *Criminal Code* (R.S.C., 1985, c. C-46);
- (h) *Provincial Offences Act*, R.S.O. 1990, c. P.33;
- (i) *Residential Tenancies Act*, 2006, S.O. 2006, c. 17;
- (j) *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22;
- (k) *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act 1982*;
- (l) *Community Safety and Policing Act*, 2019, S.O. 2019, c. 1, Sched. 1;
- (m) O. Reg. 407/23: CODE OF CONDUCT FOR POLICE OFFICERS;
- (n) *Law Society Act*, R.S.O. 1990, c. L.8;
- (o) *Change of Name Act*, R.S.O. 1990, c. C.7;
- (p) *Personal Health Information Protection Act*, 2004, S.O. 2004, c. 3, Sched. A;
- (q) *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Sched. B;
- (r) such further and other legislation as it may apply.

## **X. PLACE OF TRIAL**

493. This proceeding is commenced in Ottawa, where numerous Ottawa-based Crown Attorneys, judges, and police officials were involved in the underlying proceedings. The Plaintiffs propose that this action be tried in Toronto to ensure impartiality and avoid any reasonable apprehension of bias. In the alternative, the Plaintiffs propose that this action be tried in Ottawa with an out-of-town judge assigned to mitigate concerns regarding judicial familiarity with the parties involved. In the further alternative, the Plaintiffs propose that this action be tried in Ottawa.

DATED at Ottawa, Ontario, this 17th day of April, 2025

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Self-Represented

JUSTICE ET AL AND OTTAWA POLICE SERVICES BOARD ET AL

Court File No.

Plaintiffs Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at OTTAWA

**STATEMENT OF CLAIM**

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