

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**IZABELLE JUSTICE and MARK JUSTICE**

**Plaintiffs**

**- and -**

**OTTAWA POLICE SERVICES BOARD, STEVEN DESJOURDY, MELBURN WHITE,  
CHRISTOPHER TESSIER, CEDRIC NIZMAN, HIS MAJESTY THE KING IN RIGHT  
OF ONTARIO, AND ATTORNEY GENERAL OF ONTARIO**

**Defendants**

**STATEMENT OF DEFENCE AND CROSSCLAIM OF THE  
DEFENDANTS, OTTAWA POLICE SERVICES BOARD, STEVEN  
DESJOURDY, MELBURN WHITE, CHRISTOPHER TESSIER, AND  
CEDRIC NIZMAN**

1. Except as otherwise admitted herein, the defendants, Ottawa Police Service Board (“OPSB”), Steven Desjourdy, Melburn White, Christopher Tessier and Cedric Nizman (collectively “the OPS Defendants”), deny each and every allegation contained in the Statement of Claim, and put the plaintiffs, Isabelle Justice and Mark Justice (formerly known as Isabelle and Mark Cunningham, and collectively referred to herein as the “Plaintiffs”) to the strict proof thereof.
2. The OPS Defendants specifically deny that the Plaintiffs are entitled to the relief claimed in paragraph 1 of the Statement of Claim.
3. The OPS Defendants plead that the Plaintiffs have failed to commence this action within two years from the date of the incidents giving rise to the claim, and as such, this action is statute

barred. The OPS Defendants plead and rely upon section 4 of the *Limitations Act, 2002*, S.O. 2002, c. 24, sch. B., as amended.

4. Further, and in the alternative, the OPS Defendants state that the allegations in the Statement of Claim are improper, disclose no reasonable cause of action and ought to be struck from the Statement of Claim as they are scandalous, frivolous, vexatious, or otherwise an abuse of process of the court. The OPS Defendants deliver this pleading to avoid any noting in default and reserve all rights to seek to strike such paragraphs notwithstanding the delivery of this Statement of Defence.

5. Concerning the allegations made in paragraph 37 of the Statement of Claim the OPS Defendants admit that the OPSB is a police services board that has the duties as set out in section 37 of the *Community Safety and Policing Act* (the “Act”) and section 31 of the predecessor legislation in effect at the time of some of the Plaintiffs’ allegations, the *Police Service Act* (“PSA”). The OPS Defendants plead that the allegations made directly against the Ottawa Police Services Board establish no reasonable cause of action as the allegations concern operational matters in respect of which the Ottawa Police Services Board has no jurisdiction or, alternatively, seek damages in respect of policy decisions which are unreviewable at law.

6. The OPS Defendants further plead that pursuant to section 47 of the Act, and section 50 of the PSA, the OPSB is only liable for acts or omissions of police officers committed in the course of their employment. The OPS Defendants deny that any such acts or omissions were committed by any individual Ottawa Police Service (“OPS”) police officers, including but not limited to Staff Sergeant (“S/Sgt.”) Steven Desjourdy, Detective Melburn White, Constable Christopher Tessier

and Constable Cedric Nizman in the circumstances alleged in the Statement of Claim, or at all, that would give rise to liability.

7. Concerning the allegations in paragraph 26, 28, 31, and 34, the OPS Defendants plead that S/Sgt. Desjourdy, Detective White, Constable Tessier and Constable Nizman were at all material times duly sworn police officers with the OPS who were acting in the course of their duties pursuant to section 82 of the Act and section 42 of the PSA.

8. The OPS Defendants plead that if the Plaintiffs sustained any injuries or damages as alleged in the Statement of Claim, or at all, which is not admitted but expressly denied, then the same were not caused by any fault, neglect, negligence, breach of statute, or breach of duty on the part of the OPS Defendants or on the part of anyone for whom the OPS Defendants may be in law responsible.

## **FACTS**

### *Residential Tenancy Act Charges*

9. In or around March 6, 2019, the OPS received a complaint from the Plaintiffs' former landlord (the "Landlord"). The Landlord alleged that the Plaintiffs had provided falsified Interact e-transfer documents to the Landlord and Tenant Board ("LTB") as part of a proceeding before the LTB between the Plaintiffs and the Landlord, in which the Landlord had applied to the LTB for eviction of the Plaintiffs on the grounds of non-payment of rent (the "LTD Proceeding").

10. The Plaintiffs had rented a property from the Landlord since January 2008, for which the Plaintiffs paid the Landlord a monthly rent of \$1,800 by way of Interact e-transfer.

11. During the LTB Proceeding, Mr. Justice presented Interact e-transfer confirmation emails between the Plaintiffs and the Landlord from January 2018 to January 2019 inclusive, which were the subject of the Landlord's complaint to the OPS.

12. Detective White of the OPS Organized Fraud Section was assigned as the lead investigator to the Landlord's allegations.

13. On or about May 9, 2019, Detective White contacted a member of the Interact Corporation Fraud Section (the "Member") and provided them with the Interact e-transfer confirmation emails from between August 2018 to January 2019 that had been provided to the LTB by Mr. Justice.

14. The Member was requested to review the confirmation emails to ascertain if any Interact cash transfers had taken place associated with the confirmation emails.

15. On or about May 10, 2019, the Member reported that no record of Interact cash e-transfers existed from the Plaintiffs to the Landlord between August 2018 and January 2019 as claimed by Mr. Justice. In addition, it was determined that the Interact e-transfer emails continued to bear the name of Acxsys after September 2018, although the corporate name had been changed in September 2018 from Acxsys Corporation to Interact Corporation, and thereafter, all corporate documents displayed the new name of Interact Corporation.

16. As a result, Detective White had reasonable and probable grounds to believe Mr. Justice had falsified the Interact e-transfer confirmations between August 2018 and January 2019, which Mr. Justice had provided to the LTB.

17. Mr. Justice was charged with making a false statement contrary to section 234(v) of the *Residential Tenancy Act, 2006*, S.O. 2006, c. 17 (the "RTA Charge").

18. On or about May 28, 2019, a Provincial Offenses Summons (the “Summons”) was issued by a Justice of the Peace for the RTA Charge, with a court date set for July 12, 2019.

19. On or about May 28, 2019, Detective White attempted to serve Mr. Justice with the Summons at his last known address but was unsuccessful. Thereafter, Detective White advised Mr. Justice via voicemail message and/or email that Mr. Justice was required to attend at the OPS station where full disclosure would be provided of the pending charges.

20. Mr. Justice did not attend at the OPS station.

21. On June 21, 2019, OPS officers, including Constable Tessier, attended at Mr. Justice’s new residence located at 2589 Mitchell Street in an attempt to serve Mr. Justice with the Summons.

22. OPS officers were unable to serve Mr. Justice with the Summons. However, the OPS officers spoke with Mrs. Justice and advised that a new investigator had been assigned to the matter and the new investigator would be in touch.

23. On or about June 24, 2019, S/Sgt. Desjourdy, the new investigator on the matter, attended at 2589 Mitchell Street to attempt to serve Mr. Justice with the Summons.

24. S/Sgt. Desjourdy was unable to serve Mr. Justice, but spoke with Mrs. Justice, who identified herself to S/Sgt. Desjourdy, and advised that she would take the Summons and a Notice of Intent to give to Mr. Justice.

25. The RTA Charge was ultimately stayed on or about October 3, 2022.

*The Fraud Charges*

26. Upon learning that the Plaintiffs had a new residence at 2589 Mitchell Street, the OPS investigated further and determined that the Plaintiffs had purchased the property on October 18, 2018.

27. On or about October 16 and 17, 2018, an amount of just under \$200,000 was deposited or transferred into the Plaintiffs' back account with Scotiabank.

28. On or about November 1, 2019, the OPS completed a Production Order, requesting that Scotiabank release the Plaintiffs' bank documents from August 1, 2018 until July 1, 2019. The Production Order was granted by a Justice of the Peace that same day.

29. The OPS also determined that on October 17, 2018, the Plaintiffs obtained a \$200,345.81 draft and thereafter began making monthly mortgage payments to the Bank of Montreal.

30. On the basis of the foregoing, and the totality of the circumstances, the OPS Defendants had reasonable and probable grounds to believe that the Plaintiffs had committed the offence of Fraud Over \$5,000, as they had deprived the Landlord of her rental funds between August 2018 and July 2019, and they had made false statement in the LTB Proceeding by providing falsified documents.

31. Further, the OPS Defendants had reasonable and probable grounds to believe that the Plaintiffs had committed the offence of Possession of Proceeds of Crime, as they had withheld the rental funds in various bank accounts between August 2018 and July 2019.

32. Finally, the OPS Defendants also had reasonable and probable grounds to believe that the Plaintiffs had committed the offence of Laundering of Canadian Proceeds of Crime, as they had moved the rental funds into a new asset, being the new residence at 2589 Mitchell Street.

33. In or around January 2021, the Plaintiffs were charged with Fraud Over \$5,000 contrary to section 380(1)(a) of the *Criminal Code*, Possession of Proceeds of Crime contrary to section 354(1) of the *Criminal Code* and Laundering of Canadian Proceeds of Crime contrary to section 462.31(1)(a) of the *Criminal Code* (collectively, the “Fraud Charges”).

34. On or about January 15, 2021, OPS officers, including Constable Tessier, attended 2589 Mitchell Street to locate and speak with the Plaintiffs regarding the Fraud Charges.

35. OPS officers spoke with Mrs. Justice and advised of the Fraud Charges. OPS officers confirmed that Mr. Justice was at the residence, but he did not speak to OPS officers.

36. On January 18, 2021, S/Sgt. Desjourdy advised the Plaintiffs via email that he had reasonable grounds to charge them both with the Fraud Charges. S/Sgt. Desjourdy asked what time and date would be convenient for officers to serve the Plaintiffs with the undertaking documents.

37. On or about January 20, 2021, an OPS officer attended at 2589 Mitchell Street to advise Mr. and Mrs. Justice of an arrest advisory related to the Fraud Charges, but the OPS officer was unable to speak with either Mr. or Mrs. Justice.

38. On or about January 25, 2021, OPS officers, including Constables Nizman and Tessier, attended at 6045 Bank Street, where Mr. Justice had been located. At that time, reasonable and probable grounds existed for Mr. Justice’s arrest on the Fraud Charges. Constable Tessier confirmed the charges with the investigating officer, S/Sgt. Desjourdy.

39. After confirming Mr. Justice’s identify, Constable Tessier advised that his intent was to release Mr. Justice via an undertaking and to provide Mr. Justice with a notice of intent.

40. Mr. Justice was acting erratically.

41. Mr. Justice informed the OPS officers that he was a diabetic, and an ambulance was called.

42. Mr. Justice was subsequently removed from his vehicle and placed under arrest at approximately 15:15. He was then taken to the ambulance for medical attention. His vehicle was searched incident to arrest.

43. At approximately 15:30, Mr. Justice was released via an undertaking, and he was served with a notice of intent.

44. Mr. Justice was advised that Mrs. Justice had to be served with the same documents, and Mr. Justice agreed to facilitate the process.

45. On January 30, 2021, at approximately 19:15, Constable Tessier met with Mrs. Justice at 2589 Mitchell Street and served her with an undertaking and notice of intent in relation to the Fraud Charges.

46. On or about August 19, 2021, the Plaintiffs failed to appear in Court for proceedings related to the Fraud Charges. Bench warrants were issued for their arrest.

47. As such, on or about August 27, 2021, OPS officers attended at 2589 Mitchell Street. However, OPS officers were unable to make contact with the Plaintiffs.

48. On or about September 8, 2021, following further investigation, two additional charges were added for both Mr. and Mrs. Justice, being one count of Obstructing Justice contrary to section 129(2) of the *Criminal Code* and Uttering Forged Documents contrary to section 368(1)(a) of the *Criminal Code*, related to the LTB proceeding.



49. On the same day, the bench warrants for the Plaintiffs' arrest were rescinded.

50. The Fraud Charges were ultimately withdrawn by the Crown in September 2021, and the Crown instead proceeded on the two charges of attempting to Obstruct Justice and Uttering a Forged Document.

51. On May 28, 2024, the Crown stayed all charges against the Plaintiffs resulting from the LTB Proceedings.

### *The Perjury Charges*

52. In January 2023, the Plaintiffs represented themselves for a judge and jury trial on the charges of Obstructing Justice and Uttering Forged Documents.

53. On or about January 30, 2023, Justice Gomery, who was presiding over the trial, declared a mistrial, following a sudden and on-going illness of Mr. Justice.

54. On February 7, 2023, the Plaintiffs were to attend a hearing before Justice Ryan Bell, where new trial dates were offered to the parties.

55. However, as Mr. Justice was not present for the hearing, allegedly due to illness, the matter was adjourned to February 17, 2023.

56. On or about February 17, 2023, Mr. Justice indicated that he was too unwell to attend court. Mrs. Justice attended the hearing virtually.

57. Justice Ryan Bell once again adjourned the matter to March 3, 2023, and held that trial and pre-trial dates would be set on that date. Justice Ryan Bell ordered that if Mr. Justice could not

attend, Mr. Justice's request must be in writing, and supported by affidavit, with evidence from a medical practitioner.

58. On or about March 3, 2023, Mrs. Justice appeared virtually before Justice Parfett. Mr. Justice was not in attendance, as Mrs. Justice alleged he was isolating in their home and too ill to attend.

59. Mr. Justice had provided the Court with a sworn affidavit with a supporting letter from a medical practitioner at approximately 9:07 A.M. via email.

60. Further investigation by S/Sgt. Desjourdy on March 20, 2023 revealed that the letter from the medical practitioner attached to the affidavit provided by Mr. Justice was a forgery.

61. Further investigation also revealed that both Plaintiffs appeared together virtually to commission the affidavit with a commissioner of oath on March 3, 2023 at approximately 8:00 a.m.

62. As a result, and given the totality of the circumstances, reasonable and probable grounds existed to charge Mr. Justice with one count of Perjury contrary to section 132 of the *Criminal Code*, and to charge both Mr. and Mrs. Justice with one count each of Obstruction of Justice contrary to section 139(2) of the *Criminal Code* and one count each of Use, Trafficking or Possession of Forged Document contrary to section 368(1)(a) of the *Criminal Code* (collectively, the "Perjury Charges"), for reasons including, but not limited to:

- (a) Mr. Justice committed perjury with intent to mislead justice by submitting an affidavit with a false medical letter; and

- (b) Both Mr. and Ms. Justice acted in concert and obstructed justice by working together to prepare and/or submit an affidavit with a forged medical note to the Court.

63. On March 22, 2023, S/Sgt. Desjourdy emailed the Plaintiffs to advise that he had reasonable and probable grounds to charge them with the Perjury Charges and requested that they attend at the OPS Station located at 474 Elgin Street, on March 26, 2023 to be arrested and held for show cause court the following morning.

64. In response, Mrs. Justice sent multiple harassing and inappropriate email to S/Sgt. Desjourdy, with copies and/or blind copies to a number of members of the Ministry of the Attorney General and police services.

65. Neither plaintiff attended the OPS Station on March 26, 2023.

66. On or about March 27, 2023, the Plaintiffs and Crown attorney attended a hearing before Justice Parfett, where trial dates were set for the trial of the Fraud Charges.

67. On or about March 29, 2023, S/Sgt. Desjourdy sent Mrs. Justice an email requesting that she stop sending the unwarranted threatening emails, and advised her that she could face possible criminal charges. S/Sgt. Desjourdy advised Mrs. Justice that if she had a complaint, she should contact the Office of the Independent Police Review Director (now known as the Law Enforcement and Complaint Agency).

68. On or about April 7, 2023, S/Sgt. Desjourdy once again sent the Plaintiffs an email requesting that they turn themselves in at the OPS Station located at 474 Elgin Street on April 12,

2023. S/Sgt. Desjourdy explained the pending criminal charges and his intention to have both Plaintiffs attend a show cause hearing.

69. No response was received from either plaintiff, nor did the Plaintiffs attend at the OPS Station on April 12, 2023.

70. On or about April 18, 2023, Justice Breton authorized a warrant for the arrest of the Plaintiffs. S/Sgt. Desjourdy provided the Plaintiffs with a copy of the warrant at approximately 17:00, and requested that they turn themselves in on April 20, 2023 at 7:00am.

71. The Plaintiffs failed to attend the OPS Station on April 20, 2023.

72. On or about May 10, 2023, Mr. Justice was placed under arrest by OPS officers at approximately 15:40, on the Perjury Charges. Mr. Justice was read his right to counsel, cautioned and read his section 524 arrest warning. He was searched incident to arrest and transported to the OPS central cell block at approximately 16:37.

73. At approximately 17:00 on May 10, 2023, S/Sgt. Desjourdy contacted Mrs. Justice via email to inform her that Mr. Justice has been arrested and seeking her surrender. Mrs. Justice confirmed she would comply with the arrest warrant and would surrender herself to police.

74. As such, OPS officers executed the warrant for Mrs. Justice's arrest at 2589 Mitchell Street. Mrs. Justice was placed under arrest at approximately 21:45 and searched incident to arrest. She was read her right to counsel, cautioned and read her section 524 arrest warning. She was then transported to OPS central cell block at approximately 20:54.

*The Plaintiffs' Failure to Appear*

75. On or about September 5, 2023, the Plaintiffs were scheduled for a judge and jury trial at the courthouse located at 161 Elgin Street, Ottawa, Ontario. The Plaintiffs failed to appear and as a result, they were charged with Failing to Appear.

76. On September 5, 2023, an OPS officer attended at 2589 Mitchell Street in relation to an arrest advisory for the Plaintiffs, which was based on a bench warrant issued by Justice Labrosse. The OPS officer was unable to make contact with the Plaintiffs.

77. On or about October 2, 2023, the bench warrants were rescinded by Justice Labrosse.

78. On or about May 22, 2024, the Perjury Charges were stayed by the Crown.

## **NO LIABILITY**

79. The OPS Defendants plead that at all material times, any members of the OPS involved in this matter, including but not limited to S/Sgt. Desjourdy, Detective White, Constable Tessier and Constable Nizman, acted in a professional, competent, and reasonable fashion without negligence, malice or any other improper purpose, and in compliance with their common law and statutory duties and obligations and training as police officers pursuant to the provisions of the Act and PSA and they put the Plaintiffs to the strict proof otherwise. The OPS Defendants plead and rely on section 82 of the Act and section 42 of the PSA.

80. The OPS Defendants specifically deny the Plaintiffs' allegations of negligent investigation, negligence, malicious prosecution, misfeasance in public office, abuse of process, conspiracy, intimidation, intentional infliction of emotional distress, intrusion upon seclusion, false arrest and false imprisonment, trespass to chattels, and put the Plaintiffs to the strict proof thereof.

81. The OPS Defendants plead that, at all material times, given the available information, there were reasonable and probable grounds to arrest and charge the Plaintiffs. The OPS Defendants put the Plaintiffs to the strict proof otherwise.

82. The OPS Defendants plead that once charges were laid, all decisions in respect of the prosecution of the Plaintiffs were the responsibility and entirely within the discretion of the Crown whose decisions are independent of the OPS Defendants and for which the OPS Defendants cannot be held responsible.

83. The OPS Defendants deny that the Plaintiffs' rights under sections 2(b), 7, 8, 9, 10, 11, and/or 12 of the *Canadian Charter of Rights and Freedoms* ("*Charter*") were breached and put the Plaintiffs to the strict proof thereof. Further, and in the alternative, the OPS Defendants plead that in the event any of the Plaintiffs' *Charter* rights were breached, the same were reasonable limits on the right pursuant to section 1 of the *Charter*.

84. The OPS Defendants specifically deny that the Plaintiffs were discriminated against contrary to section 15 of the *Charter*, or at all, and put the Plaintiffs to the strict proof thereof.

85. In the alternative, the OPS Defendants plead that, to the extent that the Plaintiffs' *Charter* rights were infringed, such infringement was not deliberate or a result of any *mala fides* on the part of the OPS Defendants, occurred only as a result of the OPS Defendants' good faith execution of their statutory and common law duties, and was reasonable and justifiable pursuant to section 1 of the *Charter*. The OPS Defendants further plead that in any event, damages would not be an appropriate remedy for any *Charter* breach that the Plaintiffs could establish in the circumstances of this action.

86. The OPS Defendants plead that at all material times, the OPS Defendants acted without malice or any other improper purpose, in compliance with their duties as police officers pursuant to the provision of the Act and PSA as amended.

87. The OPS Defendants deny that any of their public functions relevant to the circumstances alleged in the Statement of Claim were performed in bad faith, that they had any awareness or were reckless to the fact that any of their conduct was unlawful or likely to injure the Plaintiffs. The OPS Defendants plead that any and all claims of malicious prosecution, misfeasance in public office or abuse of public office made against the OPS Defendants are without merit.

88. The OPS Defendants plead that if the Plaintiffs sustained any injuries or damages as alleged in the Statement of Claim, or at all, which is not admitted but expressly denied, then the same were caused by the fault of the Plaintiffs themselves, the particulars of which will be provided prior to trial.

89. The OPS Defendants deny that the Plaintiffs sustained any injuries or damages as alleged in the Statement of Claim, or at all, and put the Plaintiffs to the strict proof thereof. The OPS Defendants further plead that the damages claimed by the Plaintiffs are excessive, too remote, and not recoverable at law and have not been mitigated by the Plaintiffs.

90. The OPS Defendants specifically deny that the Plaintiffs are entitled to any punitive, aggravated or exemplary damages and put the Plaintiffs to the strict proof thereof.

91. The OPS Defendants plead and rely upon the following statutes, as amended from time to time, including but not limited to:

- (a) *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

- (b) *Police Services Act*, R.S.O. 1990, c. P 15, as amended
- (c) *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1, as amended;
- (d) *Negligence Act*, R.S.O. 1990, c. N. 1, as amended,
- (e) *Criminal Code*, R.S.C., 1985, c. C-46, as amended, and
- (f) all pertinent Regulations to those *Acts*.

92. The OPS Defendants therefore ask that this action be dismissed as against them with costs.

### **CROSSCLAIM**

93. In the event that this Honourable Court should find the OPS Defendants liable to the Plaintiffs for any damages, interest, or costs, then the OPS Defendants claim from the co-defendants, His Majesty the King in Right of Ontario and Attorney General of Ontario:

- (a) Full indemnity, contribution and other relief over;
- (b) costs of defending the main action;
- (c) costs of bringing this crossclaim; and
- (d) such further and other relief as this Honourable Court may deem just.

94. The OPS Defendants plead and rely upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N. 1.

95. The OPS Defendants repeat and rely on their Statement of Defence herein.



96. The OPS Defendants state that this Crossclaim ought to be tried at the same time or immediately following the trial of the main action.

June 16, 2025

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RCP-E 18B (July 1, 2007)

IZABELLE JUSTICE et al.

-and-

OTTAWA POLICE SERVICES

BOARD et al.

Court File No. CV-25-00099658-0000

Plaintiffs

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Ottawa

**STATEMENT OF DEFENCE AND  
CROSSCLAIM**

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RCP-F 4C (September 1, 2020)