

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**KRP ENTERPRISES INC., 1643078 ONTARIO INC.,  
KEVIN CLARK, ESTA CLARK, CHRISTINA ACCIACCAFERRO,  
JEFFREY ACCIACCAFERRO, STEVE TONG, LORI TONG,  
RUSSELL KAVANAGH, MICHELLE KAVANAGH, PAUL DURCEK,  
STEFANY DURCEK, QUINTIN CHAUSSE, DONNA CHAUSSE,  
ANNE MARIE VANSICKLE, JAMES PAUL VANSICKLE,  
J.P. WOOLLEY SURVEYING LTD. and MARGARET COOK**

Plaintiffs

- and -

**THE CORPORATION OF HALDIMAND COUNTY,  
ONTARIO PROVINCIAL POLICE COMMISSIONER GWEN M. BONIFACE,  
ONTARIO PROVINCIAL POLICE INSPECTOR BRIAN HAGGITH and  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

June 12, 2006

Issued by \_\_\_\_\_  
Local Registrar

55 Munsee Street  
Cayuga, Ontario N0A 1E0

TO: **THE CORPORATION OF HALDIMAND COUNTY**  
45 Munsee Street North  
P.O. Box 400  
Cayuga, Ontario  
N0A 1E0

AND TO: **ONTARIO PROVINCIAL POLICE**  
**COMMISSIONER GWEN M. BONIFACE**  
777 Memorial Avenue  
Orillia, Ontario  
L3V 7V3

AND TO: **ONTARIO PROVINCIAL POLICE**  
**INSPECTOR BRIAN HAGGITH**  
72 Hwy 54  
Cayuga, Ontario  
N0A 1E0

AND TO: **HER MAJESTY THE QUEEN**  
**IN RIGHT OF ONTARIO**  
Ministry of the Attorney General  
7<sup>th</sup> Floor  
720 Bay Street  
Toronto, Ontario  
M5G 2K1

**CLAIM**

1. The Plaintiffs KRP Enterprises Inc. and 1643078 Ontario Inc. claim on their own behalf, and on behalf of ~~all Class Members~~ all members of the Caledonia Business Class (as defined herein):
  - a. damages against the Defendant, The Corporation of Haldimand County, (“Haldimand County”) for nuisance, ~~and~~ for the closure of Argyle Street and for the failure to provide adequate and effective police services;
  - b. damages against the Defendant, Ontario Provincial Police Commissioner Gwen M. Boniface (“Commissioner Boniface”) and Ontario Provincial Police Inspector Brian Haggith (“Inspector Haggith”) for misfeasance in a public office and for negligence;
  - b1. damages against Her Majesty The Queen in right of Ontario (the “Province of Ontario”) for misfeasance in a public office of its servants and agents;
  - c. prejudgment interest payable pursuant to s. 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
  - d. postjudgment interest payable pursuant to s. 129 of the *Courts of Justice Act*;
  - e. their costs on a substantial indemnity scale; and
  - f. such further and other relief as this Honourable Court deems just.

2. The Plaintiffs, Kevin Clark, Esta Clark, Jeffrey Acciaccaferro, Christina Acciaccaferro, Steve Tong, Lori Tong, Russell Kavanagh, Michelle Kavanagh, Paul Durcek, Stefany Durcek, Quintin Chausse, Donna Chausse, Anne Marie VanSickle, and James Paul VanSickle claim on their own behalf and on behalf of all members of the Property Owners Class (as defined herein):
  - a. damages against the Defendant, Haldimand County, for nuisance, for the closure of Argyle Street and for failure to provide adequate and effective police services;
  - b. damages against the Defendants, Commissioner Boniface and Inspector Haggith for misfeasance in a public office and for negligence;
  - c. damages against the Province of Ontario for misfeasance in a public office of its servants and agents;
  - d. damages against the Province of Ontario for nuisance;
  - e. prejudgment interest payable pursuant to s. 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
  - f. postjudgment interest payable pursuant to s. 129 of the *Courts of Justice Act*;
  - g. their costs on a substantial indemnity scale; and
  - h. such further and other relief as this Honourable Court deems just.
3. The Plaintiff, J.P. Woolley Surveying Ltd. claims on its own behalf and on behalf of all members of the Contractors Class (as defined herein):

- a.1 damages against the Defendant, Haldimand County for failure to provide adequate and effective police services;
  - a. damages against the Defendants, Commissioner Boniface and Inspector Haggith for misfeasance in a public office;
  - b. damages against the Province of Ontario for misfeasance in a public office of its servants and agents;
  - c. prejudgment interest payable pursuant to s. 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
  - d. postjudgment interest payable pursuant to s. 129 of the *Courts of Justice Act*;
  - e. their costs on a substantial indemnity scale; and
  - f. such further and other relief as this Honourable Court deems just.
4. The Plaintiff, Margaret Cook, claims on her own behalf and on behalf of all members of the Highway 6 Class (as defined herein):
- a. damages against the Defendants, Commissioner Boniface and Inspector Haggith for misfeasance in a public office;
  - b. damages against the Province of Ontario for misfeasance in a public office of its servants and agents;
  - b1. damages against the Province of Ontario for nuisance arising from the closure of Highway 6;

- c. prejudgment interest payable pursuant to s. 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- d. postjudgment interest payable pursuant to s. 129 of the *Courts of Justice Act*;
- e. their costs on a substantial indemnity scale; and
- f. such further and other relief as this Honourable Court deems just.

#### *Parties*

- 5. The Plaintiff, KRP Enterprise Inc., (“KRP Enterprises”) is a corporation incorporated under the laws of the Province of Ontario and carries on business at 232 Argyle Street South, Caledonia, in Haldimand County.
- 6. KRP Enterprises is a franchisee of Dairy Queen Canada and carries on a retail business selling fast food and frozen food products.
- 7. The Plaintiff, 1643078 Ontario Inc., (“1643078”) is a corporation incorporated under the laws of the Province of Ontario and carries on business at 345 Argyle Street, Caledonia, in Haldimand County.
- 8. 1643078 carries on the business of the St. George Arms, a casual dining restaurant.
- 9. The Plaintiffs, Kevin Clark and Esta Clark, are the registered legal owners in joint tenancy and the occupants of property known municipally as 86 Braemar Avenue, Caledonia, Ontario.

10. The Plaintiffs, Christina Acciaccferro and Jeffrey Acciaccferro, are the registered legal owners in joint tenancy and the occupants of property known municipally as 14 Thistlemoor Drive, Caledonia, Ontario.
11. The Plaintiffs, Steve Tong and Lori Tong, are the registered legal owners in joint tenancy and the occupants of property known municipally as 138 Braemar Avenue, Caledonia, Ontario.
12. The Plaintiffs, Russell Kavanagh and Michelle Kavanagh, are the registered legal owners in joint tenancy and the occupants of property known municipally as 223 Kinross Street, Caledonia, Ontario.
13. The Plaintiffs, Paul Durcek and Stefany Durcek, are the registered legal owners in joint tenancy and the occupants of property known municipally as 238 Kinross Street, Caledonia, Ontario.
14. The Plaintiffs, Quintin Chausse and Donna Chausse, are the registered legal owners in joint tenancy and the occupants of property known municipally as 226 Kinross Street, Caledonia, Ontario.
15. The Plaintiffs, Anne Marie VanSickle and James Paul VanSickle, are the registered legal owners in joint tenancy and the occupants of property known municipally as 160 Braemar Avenue, Caledonia, Ontario.
16. The Plaintiff, J.P. Woolley Surveying Ltd., is a corporation incorporated under the laws of the Province of Ontario and carries on the business of land surveying with its head office at 125 Naim Street, Caledonia, Ontario.
17. The Plaintiff, Margaret Cook, is a sole proprietor who carries on business under the name of Verrips Greenhouses and retails plant products, horticultural products and garden supplies at 2990 Highway 6, Jarvis, Ontario.

18. The Defendant, Haldimand County, is a municipal corporation incorporated under the *Town of Haldimand Act, 1999*, S.O. 1999, c. 14, Schedule B, and is subject to the provisions of the *Municipal Act, 2001*, S.O. 2001, c.25.
19. On or about October 1, 2003, in accordance with s. 10 of the *Police Services Act*, R.S.O. 1990, c. P.15, Haldimand County entered into an agreement with the Solicitor General of Ontario (the “Haldimand Police Services Agreement”) under which it was agreed that police services would be provided to Haldimand County by the Ontario Provincial Police (the “OPP”) for a 5 year period.
20. The Defendant, Commissioner Boniface, ~~is~~ was at all material times the Commissioner of the OPP and is a chief of police of the police officers providing police services on Highway 6 and to Haldimand County under the Haldimand Police Services Agreement.
21. The Defendant, Inspector Haggith, ~~is~~ was at all material times the Detachment Commander of the OPP for Haldimand County and is a chief of police of the police officers providing police services to Haldimand County in accordance with the Haldimand Police Services Agreement.
22. The Province of Ontario, is a party pursuant to s. 5(1) of the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27, for torts committed by its servants, the Minister of Transportation, the Minister of Aboriginal Affairs, the Minister of Community Safety and Correctional Services and the Attorney General of Ontario, as set out below.

Classes and Class Members

23. ~~A Class Member is a member of the Class as~~ The respective Classes referred to in paragraphs 1 to 4 above are described herein.

~~11. The Class is comprised of all those persons, including individuals, corporations or organizations, resident in the Province of Ontario who:~~

~~a. carry on a business, whether for profit or non-profit; or~~

~~b. own property,~~

~~and who have suffered financially as a result of one or more of the following incidents:~~

~~(i) the closure of Argyle Street from April 20, 2006 until it was reopened on May 24, 2006;~~

~~(ii) the closure of Highway 6 between Green Road and the junction of Argyle Street South from April 20, 2006 until the date that it is reopened for traffic or is duly closed in accordance with the provisions of the *Public Transportation and Highway Improvement Act*, R.S.O. 1990, c. P.50;~~

~~(iii) the failure to enforce the Order of the Honourable Justice B. Matheson dated March 3, 2006, and the Orders of the Honourable Justice T. Marshall dated March 9, March 17 and March 28, 2006 and remove the Respondents (as defined in the said Orders) from the Douglas Creek Estates; and~~

~~(iv) the interruption of hydro services arising from damage done to the Hydro One Caledonia transformer station on May 22, 2006.~~

24. The Caledonia Business Class is comprised of all those persons, including sole proprietors, partnerships, corporations or organizations, whether for profit or non-profit, with places of business within the N3W Canada Post postal division whose businesses have been affected by the closure of Argyle Street from April 20, 2006 until May 24, 2006, the occupation by protestors of the Douglas Creek Estates or the