

D. Andrew Thomson, B.A., LL.B.

Barrister & Solicitor

10 William Street
Parry Sound, Ontario
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(705) 746-5838 – Tel.#
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Refer to File #cr09094

December 2, 2009

Robert Stewart,
4577 Victoria Avenue,
Niagara Falls, Ontario
L2E 4B5

Dear Mr. Stewart:

Re: Gaudreault ats Stewart

Please find enclosed and served upon you pursuant to the Rules Statement of Defence & Crossclaim of the Defendant, Denis Gaudreault.

Yours truly,



D. Andrew Thomson

DAT/sp

Encl.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ROBERT STEWART

vs

Plaintiffs

and

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, THE
ATTORNEY GENERAL OF ONTARIO, THE COMMISSIONER OF THE
ONTARIO PROVINCIAL POLICE, OTTAWA REGIONAL POLICE SERVICE
BOARD, THE CHIEF OF POLICE OF THE OTTAWA REGIONAL POLICE,
LOU OKMANAS, LYLE MacCHARLES, RICHARD RIDDELL, HEATHER
LAMARCHE, CHRISTINA BENSON, JOHN RALKO, GARY DOUGHERTY,
GEORGE SNIDER, IAN DAVIDSON, VIKKI BAIR, TERRY COOPER, and
DENIS GAUDREALT**

Defendants

**STATEMENT OF DEFENCE AND CROSSCLAIM
OF DEFENDANT, DENIS GAUDREALT**

1. This Defendant, Denis Gaudreault, denies each and every allegation pleaded in the Statement of Claim, including the claim for damages and other relief in paragraph 1 therein, except as hereinafter specifically admitted.
 2. This Defendant has no knowledge of the allegations of abuse of process, false imprisonment, breaches of Charter rights, negligence and collusion against his co-defendants but adopts the allegations in the Statements of Defence of his co-defendants in that regard.
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3. This Defendant denies that he committed any tortious act toward the Defendant and had no involvement in the conduct of the criminal proceedings against the Plaintiff except to provide information about the offence and evidence at trial.
4. This Defendant has no knowledge of the allegations relating to the history of the prosecutions, convictions, appeals and stay of proceedings against the Plaintiff but adopts the allegations in the Statements of Defence of his co-defendants in that regard.
5. This Defendant admits to having a criminal record but denies falsely accusing the Plaintiff, forgery or being a pathological liar.
6. This Defendant has no knowledge of the allegations of the Plaintiff with respect to his Bail Status, Claim against the Police, Malicious Prosecution, Conspiracy to Injure, Negligence or Wrongful Conduct of Individual Police Defendants, Abuse of Process or Breach of the Plaintiff's Charter Rights.
7. This Defendant denies that he deliberately lied about the involvement of the Plaintiff or himself in the murder of Michael Giroux and Manon Bourdeau, that he committed perjury or gave false evidence, or that he gave evidence in the criminal proceedings for personal gain.
8. This Defendant states that he was placed in the Witness Protection Program for good and valid reasons as there was a serious risk to his safety as a result of his willingness to give his testimony. He did not profit from his involvement in the Witness Protection Program nor was it any inducement to give false evidence and in fact he had many concerns about the management of the Program and his treatment while in the Program which led to his public outburst.

9. After he was wrongfully expelled from the Witness Protection Program this Defendant applied for relief under the Charter of Rights and Freedoms which Application was contested. He was granted an Order reinstating him in the Witness Protection Program pursuant to a contract which provided living expenses but was not an inducement to testify. He retained counsel to assist him in his Application, was not provided photocopying or free legal advice by anyone and the costs awarded to him on his Application amounted to only about one third of his legal bill.

10. This Defendant denies that his evidence was a deliberate and malicious fabrication for personal gain, to avoid arrest or incarceration.

11. This Defendant pleads and relies upon the Limitations Act 2002 S.O. 2002 c24 S4 and states that the Plaintiff's claim against this Defendant is barred.

12. This Defendant states that the Plaintiff was found guilty of the offences of which he was charged and has not subsequently been found not guilty. The Plaintiff chose to accept a stay of the criminal proceedings, which was granted, rather than defend the charges against him. The issue of the Plaintiff's guilt or innocence has not yet been finally determined. It is an abuse of process to attempt to re-litigate the allegations raised in the Statement of Claim all of which were, or ought to have been, raised by the Plaintiff in the course of the prosecution and disposed of therein.

13. This Defendant denies that the Plaintiff has suffered any loss or damages for which he is liable and puts him to the strict proof thereof. In the alternative, this Defendant states that the damages claimed are exaggerated, excessive, remote and unforeseeable. In

the further alternative, this Defendant states that the Plaintiff failed to act reasonably to mitigate any damages suffered and was contributorily negligent with respect to same.

14. This Defendant denies that the Plaintiff has suffered or continues to suffer any damages, or if he has, which is not admitted, that such damage was in any way caused by, or in any way the result of any act or omission of this Defendant.

15. This Defendant was at all times subject to a subpoena to attend and give evidence at the trials of the Plaintiff, including the preliminary enquiries, and therefore he had no option but to do so which he did to the best of his ability.

16. This Defendant asks that the Plaintiffs' claims be dismissed with costs on a substantial indemnity basis.

CROSSCLAIM

17. This Defendant claims against the co-defendants:

a) full indemnity and compensation for any and all damages or costs awarded against him in favour of the Plaintiffs;

b) full indemnity and compensation for his legal costs in defending this action.

18. This Defendant pleads and relies upon the allegations in his Statement of Defence and in particular paragraph 12 thereof.

Dated: December 1, 2009

D. ANDREW THOMSON
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10 William Street
Parry Sound, Ontario P2A 1V1

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Solicitor for Defendant,
Denis Gaudreault

TO:

Ministry of the Attorney General
Crown Law Office – Civil
720 Bay Street, 8th Floor
Toronto, Ontario M5G 2K1

Attention: William J. Manuel and James Kendrik
(416) 326-9855/ (416) 326-4102 – Tel.#
(416) 326-4181 – Fax#

Counsel for the Defendants, Her Majesty the Queen in the Right of Ontario,
the Attorney General of Ontario, Commissioner of the Ontario Provincial
Police, Lyle MacCharles, Richard Riddell, Heather Lamarche, Christina Benson,
John Ralko, Gary Dougherty, Vikki Bair, Terry Cooper, Lou Okmanas

AND TO:

City of Ottawa
Legal Department
110 Laurier Avenue West
Ottawa, Ontario K1P 1J1

Attention: Jeremy J. Wright
Law Society Registration No.: A02935ID
(613) 580-2424, extension 25152 – Tel.#
(613) 560-1383 – Fax#

Counsel for the Defendants Ottawa Police Services Board
(incorrectly referred to as “Ottawa Regional Police Service Board”),
Chief of the Ottawa Police Service (incorrectly referred to as
“The Chief of Police of Ottawa Regional Police”) and Ian Davidson

AND TO:

ROBERT STEWART
4577 Victoria Avenue
Niagara Falls, Ontario L2E 4B7

(289) 296-9953
Plaintiff

RCP-E 18A (July 1, 2007)

Form 4C

Courts of Justice Act

BACKSHEET

Robert Stewart (Plaintiff)

Her Majesty The Queen In Right of Ontario et al (Defendants)

Court File #CV-08-00362956-0000

PROCEEDING COMMENCED AT Toronto, Ontario

STATEMENT OF DEFENCE & CROSSCLAIM

D. ANDREW THOMSON

Barrister & Solicitor
10 William Street

Parry Sound, Ontario P2A 1V1

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LSUC #17981L

Solicitor for Defendant, Denis Gaudreault