

MAR 08 2013



Form 1 (Rule 3-1 (1))

S-131748

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

WILLIAM JAMES EVANOW

Plaintiff

And:

**BRITISH COLUMBIA (MINISTER OF JUSTICE) and CONSTABLE BRUCE
JOHN TERNAN**

Defendants

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

Claim of the Plaintiff

Part 1: STATEMENT OF FACTS

1. The Plaintiff William Evanow is a caterer and a resident of 11907 223rd Street in Maple Ridge, British Columbia. He has an address for service care of Pivot Legal Society, 121 Heatley Avenue, Vancouver, British Columbia.
2. The Defendant Bruce John Ternan is a police constable who was at all times in question employed by the Royal Canadian Mounted Police ("RCMP").
3. The Defendant British Columbia (Minister of Justice) is the prescribed government entity responsible for the RCMP, and is jointly and severally liable for the tortious actions of RCMP police constables pursuant to section 20(1)(b) of the *Police Act*, R.S.B.C. 1996, c. 367.
4. On March 11, 2011, at approximately 10:00 P.M. the Plaintiff was at home with his family when they heard police sirens and a police helicopter overhead. The Plaintiff, while standing on the back porch, witnessed a

pick-up truck stop at the beginning of his driveway, and two occupants exit the vehicle.

5. The occupants of the vehicle ran onto the Plaintiff's property and behind the Plaintiff's garage. One of the occupants (the "Suspect"), turned and began running towards the Plaintiff's back door.
6. Seeing the individual run towards the back door the Plaintiff became concerned that he would try to enter his house and feared for the safety of his family.
7. The Plaintiff left the back porch and grabbed a snow shovel as it was the nearest object to him. The Plaintiff approached the Suspect with the snow shovel, holding it by the handle.
8. The Plaintiff attempted to push the Suspect away from the house and into a tree with the snow shovel. The Plaintiff made contact with the Suspect's legs as he entered the front lawn, and both the Plaintiff and the Suspect fell to the ground. The Suspect got to his feet, as did the Plaintiff. The Suspect evaded the Plaintiff and ran towards the northeast corner of the Plaintiff's property.
9. The Plaintiff followed the suspect, and watched as the Suspect jumped over a short fence and continued running north up 223rd Street. The Plaintiff followed the suspect north on 223rd Street past an apartment building to the north of his property. At this point the Plaintiff had no intention of trying to stop the suspect, but attempted to follow him in an effort to assist the police upon their arrival.
10. The Plaintiff witnessed the Suspect turn west down an alley and the Plaintiff stopped his pursuit. The Plaintiff believed the police would arrive

shortly and be able to easily apprehend the Suspect as the alleyway did not contain an exit.

11. After the Plaintiff stopped pursuing the Suspect he turned around to return to the house. As the Plaintiff was turning he felt a sharp pain in his left leg and saw a police dog biting him. The police dog struck the Plaintiff with such force that he was knocked to the ground.
12. The Plaintiff did not hear any warnings, directions, or announcements from any police constable before being bitten by the police dog. The Plaintiff could not see any police officers when the dog began to bite him.
13. The Plaintiff estimates that at the moment the police dog bit him the Suspect was at least 100 yards away.
14. The police dog continued to hold and bite the Plaintiff, without the presence of any police constables. The Plaintiff felt it was at least 30 seconds before the Defendant Constable Bruce John Ternan arrived.
15. At least one additional police constables arrived and asked to see the Plaintiff's hands. While still remaining on the ground, and with the police dog still attached to his leg, the Plaintiff showed the constable his hands and placed them on the ground. The constable proceeded to step on the Plaintiff's hands.
16. While the police constable was stepping on the Plaintiff's hands the Defendant Constable Bruce John Ternan attempted to remove the dog from the Plaintiff's leg. Cst. Ternan had great difficulty removing the dog from the Plaintiff's leg, despite giving the dog commands and grabbing it by the collar. The Plaintiff estimates it took at least a couple of minutes for Cst. Ternan to remove the dog from his leg. The Plaintiff could hear

civilian bystanders nearby yelling for the police constables to remove the dog from the Plaintiff.

17. The Plaintiff recalls hearing one of the constables state that they did not have the correct individual.
18. After the dog was removed, the Plaintiff could feel and see large amounts of blood running out of the wounds caused by the police dog. The Plaintiff believed that he had been mortally wounded, and raised himself onto his right leg which was not injured.
19. The Plaintiff believed there was a good chance that he would die from his wounds, and limped home in an effort to seek the comfort of his family and if necessary say goodbye. The Plaintiff asked the constables if he was allowed to do this and as the constables were trying to control the police dog they said yes, and informed the Plaintiff they would call an ambulance.
20. None of the constables on the scene provided medical assistance or first aid to the Plaintiff.
21. When the Plaintiff arrived at his house he approached his family who were shocked to see his injuries. An ambulance arrived and parked on 223rd Street, and the Plaintiff was brought to the street where his injuries were treated for approximately 15 to 20 minutes.
22. The Plaintiff was then transported to Ridge Meadows Hospital where he was brought to the emergency department. The Plaintiff was made to wait for several hours for a doctor to become available before he was given any pain medication. Given the nature of the Plaintiff's injuries surgery

was required to close the wounds, but a surgeon was not immediately available.

23. At approximately 11:30 P.M. on March 11, 2011 the Plaintiff was visited by Constable Tammy Lang of the RCMP at Ridge Meadows Hospital. Cst. Lang asked the Plaintiff if she could take an audio statement from the Plaintiff on what had occurred, and the Plaintiff obliged. Cst. Lang also wanted to take pictures of the Plaintiff's wounds, and the Plaintiff consented. Cst. Lang removed the Plaintiff's bandages, took pictures, and placed the Plaintiff's bandages back without the assistance of medical personnel.
24. The Plaintiff was instructed by hospital staff to return home and told that Ridge Meadows Hospital would call in the morning and instruct him where to go for the surgery. Ridge Meadows Hospital called at approximately 7:00 A.M. and directed the Plaintiff to go to Abbotsford Hospital as quickly as possible. The Plaintiff arrived at Abbotsford Hospital at approximately 8:30 A.M., but did not have surgery until 8:00 P.M. on the evening of March 12, 2011.
25. The surgeon put in 30 stapes to close the Plaintiff's wounds, but were unable to close the largest wound which remained open. A suction machine was placed on the Plaintiff's largest wound.
26. The Plaintiff remained at Abbotsford Hospital for 7 days, and was released on March 19, 2011.
27. On March 21, 2011 the Plaintiff called Cst. Lang and left a message to ask for assistance with a Criminal Victim Assistance Program application that the Plaintiff had been instructed to fill out. The Plaintiff was concerned

about being able to pay for the next month's rent as he was unable to work.

28. On March 22, 2011 the Plaintiff was contacted by Sergeant Jeanette Thiesen of the RCMP, who asked if she could attend to their residence to talk to them about the incident. Sgt. Thiesen attended gave the Plaintiff the contact information for Granite Claims, an insurance agency, and told the Plaintiff to get in touch with them.

Part 2: RELIEF SOUGHT

29. By reason of assault and battery, and by way of negligence, the Plaintiff sustained severe personal injury and seeks the following:
30. General damages, the particulars of which are as follows:
- a) Bite wounds and lacerations to the upper left leg;
 - b) Loss of feeling and sensation to the upper left leg including ongoing pain and nerve damage;
 - c) Complete numbness in the area around the left knee;
 - d) Significant loss of skin and disfiguration of the area directly above the left knee;
 - e) Loss of range of motion in the left leg and continual difficulty lifting heavy items;
 - f) Bruising to the fingers and hand;

- g) Fearfulness and Anxiety;
 - h) Such further and other injuries as Counsel may advise.
31. Special damages due to loss of income and earning capacity, and expenses related to medical care;
 32. Interest, pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
 33. Health Care Costs pursuant to the *Health Care Costs Recovery Act*, S.B.C. 2008, c. 27;
 34. Costs;
 35. Such further and other relief as to this Honourable Court may seem meet and just.

Part 3: LEGAL BASIS

36. The Plaintiff pleads that the Defendant Constable Bruce John Ternan was on duty and acting as a police constable on the evening of March 11, 2011. The Plaintiff pleads that the Defendant Constable Bruce John Ternan committed the tort of assault and battery by instructing the police dog to bite the Plaintiff.
37. The Plaintiff pleads that the Defendant Constable Bruce John Ternan owed a duty of care to all citizens, including the Plaintiff, in the deployment of his police dog and was required to keep the dog in control at all times. The Plaintiff pleads that Cst. Ternan was either grossly negligent, or negligent, in the manner and deployment of his police dog.

38. If the Defendant Constable Bruce John Ternan is found to have been grossly negligent in the deployment of his police dog the Plaintiff pleads that he should be found individually liable for the damages the Plaintiff suffered pursuant to section 21(3)(a) of the *Police Act*, R.S.B.C. 1996, c. 367.
18. The Plaintiff further says that the RCMP owed a duty of care to all citizens, including the Plaintiff, in the training of the police dog in question and was negligent in the training of said police dog by using the 'bite and hold' method of training over less aggressive methods of training such as the 'find and bark' or 'minimum force – handler control' methods which could have prevented the Plaintiff's injuries.

Plaintiff's address for service:

Pivot Legal Society
121 Heatley Avenue
Vancouver, B.C. V6A 3E9

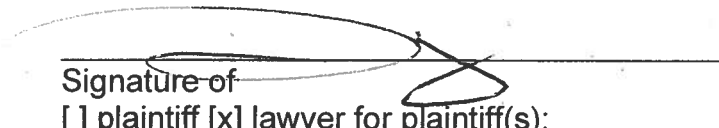
Fax number address for service (if any): (604) 255-9700

E-mail address for service (if any): dking@pivotlegal.org

Place of trial: Vancouver

The address of the registry is: 800 Smithe Street

Date:



Signature of
 plaintiff lawyer for plaintiff(s):
Douglas C. King

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

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

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

(i) all documents that are or have been in the party's possession or

control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

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

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

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM: Claim for relief for breach of the rights to life and to security of the person, contrary to s. 7 of the *Charter of Rights and Freedoms*

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

Police Act, R.S.B.C. 1996, c. 367

Negligence Act, R.S.B.C. 1996, c. 333

Court Order Interest Act, R.S.B.C. 1996, c. 79

Health Care Costs Recovery Act, S.B.C. 2008, c. 27