

ONTARIO  
SUPERIOR COURT OF JUSTICE

(Court seal)  
BETWEEN

**MICHAEL JACK**

*Plaintiff*

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO  
AS REPRESENTED BY THE MINISTRY OF COMMUNITY SAFETY  
AND CORRECTIONAL SERVICES OPERATING AS THE ONTARIO PROVINCIAL  
POLICE AND ITS EMPLOYEES MARC GRAVELLE, JOHN POLLOCK, SHAUN FILMAN,  
JENNIFER PAYNE, JAMIE BROCKLEY, MELYNDA MORAN, MARY D'AMICO, RICHARD  
NIE, BRAD RATHBUN, ROBERT FLINDALL, PETER BUTORAC, RONALD CAMPBELL,  
COLLEEN KOHEN, HUGH STEVENSON, AND MIKE ARMSTRONG  
AND ITS RETIREES MIKE JOHNSTON AND CHRIS NEWTON**

**ONTARIO PROVINCIAL POLICE ASSOCIATION AND  
ITS REPRESENTATIVES SHAUN FILMAN, KAREN  
GERMAN, JIM STYLES AND MARTY MCNAMARA**

*Defendants*

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**AFFIDAVIT OF LLOYD TAPP**

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**My background**

1. I was born in the city of New Delhi, India in January of 1965. I am Indian by birth and the

colour of my skin is brown. My father worked for the American Peace Corps and when they were closing offices in India my father immigrated to Canada along with his family. I was eleven years old when I came to Canada and entered the Canadian schooling system in grade 6.

2. Due to my nationality and skin colour I was often the brunt of sarcastic and racial comments from school peers. In an attempt to assimilate to the Canadian culture I worked hard at trying to lose my Indian accent. It did not take me long and I felt I had accomplished this by the time I entered high school for I noticed the racial comments were not as prevalent as the junior school.

### **My time with the Toronto Police Service**

3. I was always fascinated with the police and when I graduated from high school I worked for a couple of years before seeking and obtaining employment with the Toronto Police Service (TPS). My family was proud to see me achieve my goal of being a police officer especially because we were minorities that had come to a new country to make a new living. Not long after joining the TPS I got married.
4. I was employed with the TPS for about fifteen years. All through my employment I was never subjected to any humiliating treatment and never targeted or even felt that I was being targeted. I felt at home within the service.
5. The service was extremely multicultural and obviously that had an impact on the unbiased and respectful interaction between the officers. However, that changed when I joined the Ontario Provincial Police (OPP).

6. In all of my years with the TPS I never had a single negative evaluation or anything negative mentioned about me in any of the evaluations.

### **My time with the Ontario Provincial Police**

7. In 2001, I started considering applying to the OPP. Being that my wife was from the country and our family was growing, I considered the OPP. I felt that the country would be a comfortable and peaceful place to bring up my family.
8. September 30<sup>th</sup>, 2001, was my last day with Toronto Police Service. I commenced employment with the OPP on October 1<sup>st</sup>, 2001. Little did I know what I was going to be experiencing within this large rural organization.
9. My problems with the Ontario Provincial Police date back to 2001, when I was working out of the Cobourg Detachment, which is part of Northumberland OPP.
10. I found the transition from years of policing in the large urban police force of Toronto to the rural policing of the OPP difficult. It was hard to instinctively change my modus operandi that was cultivated from the previous years with the Toronto Police Service.
11. Where one would deal with one call at a time, it was now expected that one was supposed to drop whatever investigation they were in the middle of (whether that was a Break and Enter investigation, a theft complaint or even in the midst of taking a statement regarding an investigation) and respond as back up to an officer that was attending to something as simple as an alarm call or even dropping off an officer at another detachment.

12. Needless to say, I was documented negatively about four or five times along with some positive documentation. During my one year probation period I was placed on a special review by my Staff Sergeant, Mike Johnston.

### **Transfer to Peterborough Detachment**

13. In an attempt to turn a new page and start afresh I accepted a lateral transfer with a female officer from Peterborough Detachment. I was due to start at Peterborough Detachment on the 17<sup>th</sup> of March, 2003. Little did I know that my old Staff Sergeant (Mike Johnston) would be taking over as the detachment commander at Peterborough Detachment in 2007.
14. Aside from me there was another visible minority officer (young Mark Mussington) at Peterborough detachment but due to his tenderness in years of service (less than a year in 2003) he was not about to complain.
15. In mid-February, 2003, I attended Peterborough Detachment to meet with the staff sergeant to find out which platoon I was going to be on and who my sergeant was going to be.
16. I was there around 10:00 am and was standing at the threshold of the Staff Sergeant's office. I was advised that his name was Gary Collins. He was on the telephone and so I waited at the open doorway until he was off the telephone.
17. After a couple of minutes he hung up and I knocked on the door nodding my head to him as he looked in my direction. Walking in, I introduced myself extending my hand for a handshake.

18. He remained seated behind his desk and just responded in an authoritative voice, "so you are Tapp, have a seat." He went on to tell me how he had just got off the telephone with my staff sergeant from Northumberland, Mike Johnston. **He said that Staff Sergeant Mike Johnston had nothing nice to say about me, in fact he said that I was nothing but a problem.**
19. When I tried to say something, Staff Sergeant Collins just motioned with his hand extended towards my direction, palm up, stating that **he had heard enough from the staff sergeant and that he would be watching me closely.** He told me that I would be on 'A' platoon and that my sergeant would be Peter Butorac. The whole meeting only lasted about a couple of minutes.
20. I had no idea of the ramifications of Staff Sergeant Mike Johnston's (now Inspector) comments to Staff Sergeant Gary Collins. Mike Johnston went out of his way to have a telephone conversation with my future staff sergeant and poisoned his mind about me thereby poisoning my future work environment.
21. Though I knew this was discrimination and harassment I also knew that it was racial discrimination due to the fact that I was a visible minority. However, I was willing to let it slip by, since I was turning a new page.
22. I thought because of my high work ethics they (the management) would see how I worked, talked and carried myself. I also thought that the positive rapport that I was able to establish with my colleagues on my platoon would eventually change their opinion of me. Much later I started to see the ramifications of his comments.

23. I have been targeted by the OPP at the Peterborough Detachment and this targeting has been supported by upper management of the organization's headquarters in Orillia. The OPP carefully orchestrated and manipulated an approach towards me in a variety of scenarios in order to bring me in line with their ideology.
24. On December the 14<sup>th</sup>, 2004 I was moved to a new platoon so that I could be under the supervision of a sergeant that was willing to carry out their plan (I have a confidential e-mail from the inspector to that sergeant to substantiate this view.)
25. My equipment was examined in a manner that was specifically different from the rest of the platoon within 21 working days on this new platoon.
26. On February the 13<sup>th</sup>, 2005, I was ordered to produce a sick note for two days (February 2<sup>nd</sup> and 3<sup>rd</sup>, 2005) that I was sick, otherwise my sick claim was not going to be honored by the detachment commander and hence I would not be getting paid for those two dates. There were two other white officers that were sick on those two dates and they were not ordered to produce a sick note. The request itself was one that was impossible to accommodate in any way.
27. I was ordered by my sergeant to use an extremely rusty handgun (as the sergeant put it) and work the rest of my shift on the road thereby endangering my safety.
28. Whereas other white officers were accommodated when on light duties I was not. I was ordered to stay at home for a period of two and a half months (end of March 2005 to June 20<sup>th</sup>, 2005) while the OPP took their time in preparing a back to work plan. I was never reimbursed for my lost wages.

29. I was charged under the Police Services Act (PSA) and convicted for speaking to my wife. I was convicted for Breach of Confidentiality. I was the only officer in all of the OPP to be convicted for Breach of Confidentiality for speaking to his wife.
30. I was investigated by the Professional Standards Bureau (PSB) of the OPP for sending a threatening e-mail to the Peterborough detachment personnel.
31. My e-mail read: "whoever had the gall to send this message kindly come and see me and be prepared to justify it."
32. Another sergeant (Mike Dennis) sent a threatening e-mail some time later to all personnel but was never investigated by the PSB. His message stated: "whoever did this despicable and disgusting thing come and see me... my office is down the hall and to the right ... and I will very physically remind you what it is to be an OPP officer and have respect for this organization." But then again he was white and I was a visible minority.
33. In April, 2006, I was humiliated and yelled at by Staff Sergeant Gary Collins. I was ordered to "shut my mouth and just listen to him" while he pointed his finger in my face.
34. I was falsely accused of committing discreditable acts against the staff sergeant: like bad mouthing his wife and daughter, urinating on his wife's car and placing a dead rabbit in his desk.
35. I had no idea this was happening and these occurrences were a revelation to me in early 2010 when it was brought out during my Ontario Human Rights hearing against the OPP.
36. I never associated with anyone other than a couple of officers. I always felt that I was under scrutiny and hence how could any such person commit such disgusting acts.

37. The fact that his desk was in his office that was always locked in his absence and the only persons with access to a key were the inspector's secretary and the sergeants reveal that only a limited number of supervisory and administrative personnel had access to his office.
38. I was falsely charged under the Highway Traffic Act in 2008 for stunt driving and careless driving. The truth came out during the trial and the charges were dismissed. However, I believe I was subjected to malicious prosecution in that charge.
39. I was charged and convicted under the PSA for speaking to the media upon the conclusion of my trial. I exercised my constitutional right as a Canadian citizen under section 2(b) of the Charter of Rights and Freedoms and as a result I was charged with Discreditable Conduct under the Police Services Act.
40. I was discriminated against due to my religion and placed on a written order prohibiting me from speaking about religion to some of my colleagues who share the same faith as I do. To this date, I am even prohibited from using the word 'BLESSED.'
41. I was prohibited (by way of a written order from Inspector Mike Johnston) from working overtime at other detachments on my days off and vacations days. Other personnel were not given the same order.
42. In 2005, I filed two separate complaints with the Ontario Human Rights Commission outlining numerous violations under the Human Rights Code. As a result of that, I experienced reprisals.
43. In May, 2007, I filed my third complaint with the Ontario Human Rights Commission against the OPP. That involved the humiliating manner in which Staff Sergeant Gary



Collins on the 16<sup>th</sup> of April, 2007 spoke to me and how he poisoned the work environment with my platoon (D platoon).

44. In the meantime my charges of insubordination and breach of confidentiality concluded. The insubordination was dismissed and I got convicted of the other. The presiding adjudicator stated in his closing remarks that as the charge reads: **I breached confidentiality in so much that I knew or ought to have known that by talking to my wife the information would make its way over to her sister.**
45. This was more stressful since the OPP had made me attend the Employee Assistance Program (EAP) when my doctor placed me on a period of absence in 2005, due to stress from work. The EAP counselor advised me that whenever I was under stress to talk about it to someone I trusted and said that the best person would be my spouse.
46. I did this and instead of the OPP investigating why my wife's sister was flagged as mental without justification, the OPP charged me.
47. In an attempt to get away from the detachment for a period of time I accepted a five-month secondment to Caledonia. However, when I returned the reprisals continued for the new Peterborough Detachment commander, that started in my absence was none other than Inspector Mike Johnston.
48. Having been promoted he moved to Peterborough County since he lived in the City of Peterborough. Now the conversation that he had with Staff Sergeant Gary Collins in mid-February 2003 stood out in my mind and the reprisals continued.

49. In early 2007, Harry Allen Chase started on my shift as a new recruit at the detachment. He was an older officer and I felt pity on him because his coach officer, Richard Nie often referred to him as 'Pea Brain'. It was very clear to me that Mr. Nie did not like him and was even intimidated by the sense of authority that Mr. Chase posed when he presented himself to anyone.
50. I even volunteered to take him out a few times but was never allowed that by my shift sergeant, Sgt. Gerry Smith.
51. I made it a point to one day tell Mr. Nie when we were coming in from shift and were in the side lobby and he had made a comment about Mr. Chase having to ask the dispatcher to repeat herself too many times. I told him very firmly that, 'I did not think he asked the dispatcher to repeat herself any more than he did' and went on to add, 'he will make a fine officer.'
52. On another occasion having come in early from the end of a shift I found Mr. Chase at the computer in the constables office and he looked frustrated. I asked him if he was working on the domestic call he had earlier and he nodded his head. Knowing that he was having difficulties with his coach officer who was often picking apart his occurrences even though they contained enough and more than sufficient factual detail I volunteered to do the occurrence for him.
53. Either the next day or when we returned back from our days off, Mr. Chase told me that Mr. Nie picked apart the domestic report that I wrote. I asked him if he said I prepared the report and he told me that he didn't.

54. I subsequently confronted Mr. Nie regarding the call in a tactful manner advising him that I was monitoring the domestic call when it came over the air and Mr. Chase's comments were good and clear to the dispatcher. He responded by saying something to the effect that 'well he didn't do a good job on the occurrence report.' Immediately I stated, "Hogwash! I read that report of his and it was good." The look on his face said it all. He was shocked at my remark.
55. I know Mr. Chase was treated badly at the detachment and I was powerless to do anything since I was experiencing similar treatment.
56. On the 23<sup>rd</sup> of November 2007, I was sent an e-mail from Insp. Johnston whereby I was discriminated against. The e-mail addressed to me singled me out by ordering me (and only me) to not work at other detachments on overtime and paid duties, even on my vacation days, rest days, float days and statutory holidays.
57. I asked the Inspector to send the same e-mail out to the rest of the detachment so that everyone else could be treated in similar manner. He responded in e-mail, "**Absolutely, it was not specific to you. I will send it out to the rest of the detachment.**" That e-mail was never sent out.
58. On Friday the 11<sup>th</sup> of April, 2008, I telephoned the Ontario Provincial Police Association (OPPA) and spoke to Chief Executive officer Jim Staples. I complained to him about the continued harassment and discrimination that I was being subjected to at the Peterborough Detachment and OPP management.
59. I explained some examples including the recent charges that I was facing under the Highway Traffic Act. I was surprised when Mr. Staples told me that the association did not

deal with any offences under the Human Rights Code and that I would have to file a complaint with the OPP's PSB.

60. How could one be expected to file Human Rights complaints with a unit (PSB) that was constantly investigating him? I hung up feeling desperately alone.
61. By early 2009, I had five complaints filed with the Ontario Human Rights Commission (OHRC) against the Ontario Provincial Police (T-0434-08;T-0435-08;T-0436-08;T-0437-08; T-2009-02417-1.) The OPP moved me to the City of Kawartha Lakes detachment and the reprisals followed.
62. Michael Jack started at the Peterborough Detachment in January, 2009. I remembered him when he had attended the front desk of the detachment. I was working the front desk as a result of the Stunt Driving charge. On one of these occasions, holding up a pen to him I told him, "Remember my friend, the pen is mightier than the sword."
63. I told him that only because I saw the consternation on his face and felt the frustration he must have been going through.
64. Working the front desk, Monday through Friday, allowed me to experience the personnel from all four shifts and overhear their interactions.
65. Many times during Mr. Jack's shifts I would overhear an officer making fun of his accent or curse out loud enough for me to hear. I cannot tell who made the comments for I was a distance away and in the front but they were always in relation to something he either went to or was heard by his peers over the portable radio responding to or something that his peers felt he did wrong.

66. What stands out in mind is that they were derogatory comments and almost always had the words, that 'fuckin guy', 'that fuckin. crazy Russian.' Though I was in another room and some distance away I always knew when he was not in the detachment or not in the constables room for he would be referenced as 'Crazy Ivan.'
67. On one occasion Marsha Sheenan, the front desk clerk who worked at another desk, having heard me mutter 'I feel sorry for Michael' asked me, "Is he really crazy?" I told her that he wasn't and must have been quite forceful in what I said for she never said anything about him, at least not in my presence.
68. I only wish I had more and confronted those that treated mistreated him but the fact was I was being targeted as well and I had enough to deal with in trying to dot my I's and cross my T's and at that time simply didn't not care anymore, unless something happened in front of my eyes like when Mrs. Sheenan made that comment about him.
69. The Human Rights Commission struck down the mediation that commenced in early 2009 and sent the complaints for trial. On the third day of a five day hearing (March 26<sup>th</sup>, 2010) the OPP wished to negotiate and a settlement was reached. I was happy that my complaints were seen to have merit and I viewed this trying process as a victory.
70. Although there was a non-disclosure clause put in place and I was to be free from reprisals, the reprisals from the OPP continued.
71. On March 31, 2010, just five days after the settlement I was called into the Inspector's office and served a memorandum that I was under formal investigation by PSB for making an offensive and unprofessional comment during the 2<sup>nd</sup> day of my OHRC

hearing at the tribunal. Charges of Insubordination and Discreditable Conduct followed a few days later.

72. The comment was made during a minute and a half break while an argument of law was being aired. It was made to one of the respondents who was bound by an order of the tribunal, an exclusion of witnesses order and hence was not supposed to be trying to initiate conversation with me yet he did and I responded and got charged.
73. All I have to say was that I was in the middle of a hearing involving allegations of racial discrimination and now I was charged for exercising my constitutional rights again - so much for not violating the terms of the settlement.
74. When I reflected on everything certain truths become clear to me.
75. I never experienced such discriminatory treatment with my almost fifteen years of service with the Toronto Police Service.
76. Had Michael Jack and Harry Allen Chase approached me prior to the commencement of my OHRC hearing they would have been used as witnesses in my case. Michael has since told me that when he was at the detachment he was afraid to be seen talking to me because I was supposed to be a bad officer and I was not liked by most in the detachment.
77. Michael Jack, Harry Allen Chase and I had one thing in common – we were victims of the Peterborough Detachment of the OPP.
78. Since December 5, 2013, I have been on a leave of absence without pay from the OPP who say I am not medically fit for work based on their Independent Medical Assessment

(IME) under the explicit threat that my leave of absence without pay would not be changed to a leave of absence with pay unless I attend such an assessment even though my doctor and my psychiatrist provided documentation supporting my return to work.

79. So I did and though the assessment with their contracted psychiatrist was supposed to be for an hour it last only twenty minutes after which time he told me that he has heard enough and that there was no need to go on any further.

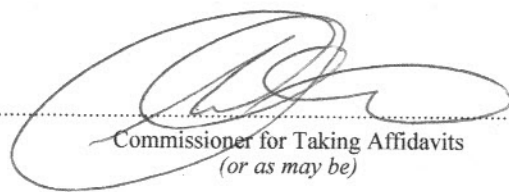
80. A month later I received registered letter from my employer stating that my leave of absence without pay would not be changed based on the IME report they received and as such they were handing my file over to Ontario Public Services for relocation.

81. I am willing to testify about the discriminatory, harassing, targeting experiences and defamation that minorities are subjected to at the Peterborough Detachment; in particular by a few officers who are local to the Peterborough area and for that reason I disclose the aforesaid.

82. In anticipation of giving evidence,

Sworn (or Affirmed) before me at the  
City of Whitby on,

31 day, January, 2014.

  
Commissioner for Taking Affidavits  
(or as may be)

Commissioner of Oaths  
P02259



(Signature of deponent)

RCP-E 4D (July 1, 2007)