

Courts of Justice Act

NOTICE OF DISCONTINUANCE

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, Mike Johnston, Chris Newton,
 Colleen Kohen, Hugh Stevenson and Mike Armstrong

Ontario Provincial Police Association and its representatives
 Shaun Filman, Karen German, Jim Styles and Marty McNamara

Defendant(s)

NOTICE OF DISCONTINUANCE

The plaintiff wholly discontinues this action against the defendant 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, Mike Johnston, Chris Newton, Colleen Kohen, Hugh Stevenson and Mike Armstrong

~~on the grounds that the Plaintiff failed to give the requisite sixty days notice in writing to the Crown as per section 7 of the *Proceedings Against the Crown Act (PACA)*.~~ *hjt.*

~~It is noted as appended below that the Crown has accepted the action that was served as notice pursuant to the requirements of *PACA*.~~ *hjt.*

January 14, 2013

VIA COURIER

Michael Jack
c/o Lloyd Tapp
252 Angeline Street North
Lindsay, Ontario
K9V 4R1

Dear Mr. Tapp:

RE: CV-12-470815 Michael Jack –and- Her Majesty the Queen in Right of Ontario as represented by the Ministry of Community Safety and Correctional Services

Please be advised that I am counsel for Her Majesty the Queen in right of Ontario (the “Crown”) in respect of the above civil matter. Please direct all future correspondence and documentation in this matter to myself.

We were served with the Statement of Claim on December 27, 2012. Please be advised that pursuant to section 7 of the *Proceedings Against the Crown Act*, plaintiffs are required to serve a Notice of Claim on the Crown at least sixty days before the commencement of any action. We do not have a record of service of a Notice of Claim on the Crown. If one was served on the Crown, please provide us with a copy of the Notice along with particulars as to where and when it was served.

In the absence of a properly served Notice of Claim under the *Proceedings Against the Crown Act*, the courts have held that the action is a nullity as against the Crown. We are therefore not able to waive or abridge the Notice of Claim requirement even if inclined to do so. We are prepared to accept the Notice of Action and Statement of Claim served on December 27, 2012 as a Notice of Claim under section 7 of the *Proceedings Against the Crown Act*. The usual procedure plaintiff’s counsel follow in these circumstances is to discontinue the existing action as against the Crown and commence another action against the Crown after the expiry of the requisite sixty days and consolidate the new action with the existing action against the other defendants.

We trust having regard to the above that you will not note the Crown in default. If you have any questions regarding the foregoing, please do not hesitate to contact me.

Yours very truly,



Lisa Compagnone
Senior Counsel

c Ashton, Nicole (JUS)
Weafer, Carolyn (JUS)

NOTE: If there is a counterclaim, the defendant should consider rule 23.02, under which the counterclaim may be deemed to be discontinued.

NOTE: If there is a crossclaim or third party claim, the defendant should consider rule 23.03, under which the crossclaim or third party claim may be deemed to be dismissed.

Date: Thursday, February 28, 2013

Michael Jack
c/o Lloyd Tapp
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Ph: 705-878-4240
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TO: Lisa Compagnone
Counsel for
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

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AND TO: retired employees Michael Johnston and Chris Newton

Ontario Provincial Police
Lincoln M. Alexander Building
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Orillia, ON L3V 7V3

Tel: 705-329-6111

Fax: 705-329-6600

BACKSHEET

COURT FILE NO.: CV-12-470815

Michael Jack and **Ontario Provincial Police**
Plaintiff *Defendants*

*CLAIM HAS NOT BEEN
SERVED*

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at TORONTO

NOTICE OF DISCONTINUANCE

(if affidavit, indicate name of deponent and date sworn)

Lloyd Tapp

252 Angeline Street N.
Lindsay, ON K9V-4R1

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E-Mail: dmclaugh@bell.net

Agent and Representative for **Michael JACK**