Court File No. CV – 10 – 408131 00CP

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**

BETWEEN:

AMENDED THIS Oct. 12, 2011 PURSUANT TO
MODIFIÉ CE CONFORMÉMENT À
☐ RULE/LA RÈGLE 26.02 (_____)
☑ THE ~~ORDER OF~~ MADAM JUSTICE HELKINS
L'ORDONNANCE DU
DATED / FAIT LE August 24 2011
REGISTRAR GREFFIER
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

**SHERRY GOOD**

Plaintiff

and

**TORONTO POLICE SERVICES BOARD,**
**ATTORNEY GENERAL OF CANADA,**
**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, and**
**REGIONAL MUNICIPALITY OF PEEL POLICE SERVICES BOARD**

Defendants

**Proceeding under the *Class Proceedings Act, 1992***

# 2nd FRESH AS AMENDED STATEMENT OF CLAIM
## As Amended on October 12, 2011
## Notice of Action Issued on August 5, 2010

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## *I. Relief Claimed*

1. The Plaintiff claims (on her own behalf and on behalf of the class members for this action):

(a) General damages in the amount of $35,000,000.00, for false imprisonment, assault and battery, systemic negligence, and other torts described below; and for breaches of the class members' section 2, 7, 8, 9, 10 and 12 rights as guaranteed by the *Charter of Rights and Freedoms* (the "*Charter*"), and other *Charter* violations described below; and for discrimination under the Ontario *Human Rights Code*;

(b) Aggravated and special damages in the amount of $20,000,000.00, for these same torts and *Charter* violations;

(c) Punitive and exemplary damages in the amount of $20,000,000.00;

(d) Declarations that the actions and tactics of the Defendants and their agents violated the *Charter of Rights and Freedoms*;

(e) Declarations and orders requiring that the Defendants expunge records relating to class members' arrests or detentions, including the destruction of related fingerprints and photographs;

(f) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*;

(g) Costs of this action on a substantial indemnity basis, together with post-judgment interest thereon, pursuant to s. 129 of the *Courts of Justice Act*; and

(h) Such further and other relief as this Honourable Court may deem just.

## *II. Overview*

2. This action is brought to preserve and affirm the fundamental civil rights of over 1000 Canadian citizens, residents, and visitors who, in the context of the global G20 Summit meeting in Toronto on June 26 and 27, 2010, publicly and lawfully demonstrated to express their concerns on issues of public importance, or who were observing and/or

reporting on those demonstrations, or who were present simply by chance, and who were wrongfully and without good cause arrested, detained, imprisoned, and/or held by police.

## *III. The Parties*

3. The Plaintiff Sherry Good is an office administrator residing in Toronto, Ontario.

4. The Defendant Toronto Police Services Board is the "municipal police services board" for the City of Toronto pursuant to the provincial *Police Services Act*. The Toronto Police Services Board is liable for the wrongful or negligent acts and omissions of the members, employees, and agents of the Board and of the Toronto Police Service, including members of other police forces operating under the jurisdiction, supervision, or command of the Toronto Police Service or its members.

5. The Royal Canadian Mounted Police (the "RCMP") is the police force for Canada pursuant to the federal *Royal Canadian Mounted Police Act*. The federal Crown is liable, pursuant to the federal *Crown Liability and Proceedings Act*, for the wrongful or negligent acts and omissions of the RCMP's members, employees, and agents, including members of other police forces operating under the jurisdiction, supervision, or command of the RCMP or its members. The federal Crown is also liable, pursuant to the federal *Crown Liability and Proceedings Act*, for the wrongful or negligent acts and omissions of members of the Canadian Forces. According to the *Crown Liability and Proceedings Act*, the Defendant Attorney General of Canada is the person in whose name proceedings are taken against the federal Crown.

6. The Ontario Provincial Police (the "OPP") is the police force for Ontario pursuant to the provincial *Police Services Act*. The provincial Crown is liable, pursuant to the *Proceedings Against the Crown Act*, for the wrongful or negligent acts and omissions of the OPP's members, employees, and agents, including members of other police forces operating under the jurisdiction, supervision, or command of the OPP or its members. The provincial Crown is also liable, pursuant to the *Proceedings Against the Crown Act*, for the wrongful or negligent acts and omissions of employees and agents of the Ministry

of Community Safety and Correctional Services. According to the *Proceedings Against the Crown Act*, the Defendant Her Majesty the Queen in right of Ontario is the party to be named in proceedings taken against the provincial Crown.

7. The Defendant Regional Municipality of Peel Police Services Board is the "municipal police services board" for the Regional Municipality of Peel pursuant to the provincial *Police Services Act*. The Regional Municipality of Peel Police Services Board is liable for the wrongful or negligent acts and omissions of the members, employees, and agents of the Board and of the Peel Regional Police (the "Peel Police"), including members of other police forces operating under the jurisdiction, supervision, or command of the Peel Police or its members.

8. For the purposes of this claim, the terms "police" and "police officers" include members, employees, and agents of the Toronto Police Service, RCMP, OPP, or Peel Police, and members of other police forces who were under the jurisdiction, command, or supervision of the Toronto Police Service, RCMP, OPP, or Peel Police, or under the joint jurisdiction, command, or supervision of any or all of the Toronto Police Service, RCMP, OPP, Peel Police, or Canadian Forces during the G20 Summit.

## *IV. The Proposed Class and Subclasses*

### *A. The Proposed Class*

9. The proposed class members for this action include those individuals in the City of Toronto who were arrested and/or subjected to mass detention by police, on June 26 and 27, 2010, in relation to the G20 Summit, and were:

(a) released without charge; and/or

(b) imprisoned in the Eastern Avenue Detention Centre.

10. The Plaintiff asserts that those "subjected to mass detention" include those subjected to the police tactic known as "kettling," whereby police detain a large group of people *en masse* by forming a cordon around them and preventing persons from leaving the group, often for an extended period of time.

*B. The Proposed Subclasses – Mass Detentions and Arrests by Location*

11. This action seeks particular relief on behalf of the following subclasses, consisting of those proposed class members who were arrested or subjected to mass detention by police:

(a) in a police cordon in the vicinity of the intersection of Queen Street West and Spadina Avenue on the afternoon of June 27, 2010, and eventually released without charge (the "Queen and Spadina Subclass");

(b) in a police cordon in the vicinity of the Hotel Novotel Toronto Centre on the Esplanade on the evening of June 26, 2010, and eventually released without charge (the "Esplanade Subclass");

(c) in a police cordon in the vicinity of the Eastern Avenue Detention Centre on the morning of June 27, 2010, and eventually released without charge (the "Eastern Avenue Subclass");

(d) in a police cordon in the vicinity of the intersection of Queen Street West and Noble Street on June 27, 2010, and eventually released without charge (the "Parkdale Subclass");

(e) during mass arrests in the vicinity of Queen's Park on the afternoon of June 26, 2010, and released without charge or charged with unlawful assembly and/or any other offence related to a failure to disperse from the vicinity of Queen's Park; (the "Queen's Park Subclass");

(f) at the University of Toronto Graduate Students' Union Gymnasium on the morning of June 27, 2010 (the "Gymnasium Subclass"); and

(g) at other locations in Toronto, and eventually released without charge (the "Residual Subclass").

*C. The Proposed Overlapping Subclass – Those Imprisoned in the Eastern Ave. Detention Centre*

12. This action also asserts particular causes of action and seeks particular relief on behalf of a proposed overlapping subclass consisting of all class members who were arrested and imprisoned in the Eastern Avenue Detention Centre beginning on June 26 or 27, 2010 (the "Detention Centre Subclass").

13. A majority of the members of the seven subclasses described above are also members of the Detention Centre Subclass (because they were imprisoned in the Detention Centre). In addition, the Detention Centre Subclass includes class members who are not part of the above seven subclasses, namely, persons charged with criminal offences at locations other than Queen's Park and the University of Toronto Gymnasium who were subsequently imprisoned in the Eastern Avenue Detention Centre.

## *V. The G20 Summit and the Role and Liability of the Defendants*

14. On December 7, 2009, the Government of Canada announced that it would be hosting a summit of the leaders of the Group of Twenty countries (the "G20") in Toronto (the "G20 Summit"). This summit was held nearly seven months later during the weekend of June 26 and 27, 2010. In anticipation of this summit and a summit of the Group of Eight (the "G8") immediately before in Huntsville, Ontario, about $1.2 billion was spent on summit-related expenses, of which about $930 million was earmarked for security- and police-related expenses.

15. As part of its preparations for the summits, the RCMP set up a G8-G20 Summits Integrated Security Unit (the "ISU"). According to the ISU's website, "[t]he ISU is a joint forces team comprised of security experts collaborating together to ensure the safety of the Heads of State, the community and minimize to the fullest extent possible, the potential impact of police security operations. [*sic*]" The website also stated that "[t]he G20 ISU will also uphold the fundamental freedoms of thought, belief, opinion, expression and of peaceful assembly as outlined in the Canadian *Charter of Rights and Freedoms*." The ISU consisted of representatives from the RCMP, Toronto Police Service, OPP, Peel Police and Canadian Forces (the "ISU Partners").

16. The ISU was under the direction of a Chief Superintendent of the RCMP. The RCMP was also responsible for the "general co-ordination of security".

17. The Toronto Police Service shared responsibility with the ISU, and it was responsible for "co-ordination of public order within the City of Toronto", "crowd management", and "prisoner processing". As part of these responsibilities, a temporary detention centre for prisoner processing for G20-related arrests was created at 629 Eastern Avenue, Toronto, Ontario (the "Detention Centre").

18. The OPP shared responsibility with the ISU, participated in the strategic and operational decision making of the ISU, and provided direct assistance to the Toronto Police Service by taking part in public order policing activities in the City of Toronto during the G20 Summit, at the request of the Toronto Police Service.

19. The Peel Police and Canadian Forces shared responsibility with the ISU and participated in the strategic and operational decision making of the ISU in relation to the G20 Summit.

20. The RCMP, Toronto Police Service, OPP, Peel Police, and Canadian Forces operated under a "unified command" for G20 Summit purposes.

21. Given the experience of previous G20 and other summits, it was widely expected that political demonstrations by citizens, residents, and visitors would occur in the period leading up to the summit as well as over the summit weekend. These political demonstrations were expected to express public concern on a variety of topics, given the nature and scale of the G20 Summit, including issues such as climate change, global poverty, indigenous rights, and gender equality. In fact, during the weekend, thousands of people did peacefully participate or attempt to participate in such political demonstrations pursuant to the rights and freedoms guaranteed to everyone in Canada by the *Charter*.

22. However, during the course of the G20 Summit weekend, the largest number of mass arrests in Canadian history occurred. In the end, more than 1,000 people (including demonstrators, journalists, legal observers, tourists, bystanders and citizens conducting their normal business without any connection to the demonstrations) were unlawfully arrested and/or detained by police officers under the command, supervision, and jurisdiction of the Toronto Police Service and the other ISU Partners. Dozens of peaceful protestors were assaulted by police officers under the command of the ISU or one or more of the ISU Partners. Over 100 of these individuals were released at the scene of the arrest and/or mass detention with no charges; over 700 more were preemptively arrested and taken into custody, purportedly under the "breach of the peace" power, and eventually were released with no charges. In other words, the vast majority (over 800) of those subjected to mass detention or arrest were released with no charges, and without the police ever having to appear before a court or any authority to justify the detentions or arrests.

23. The remainder, approximately 200 individuals, were charged with alleged criminal offences and sent for bail hearings. Most of those charges have since been withdrawn, stayed or dismissed.

24. For example, those charged with criminal offences included a group of approximately 113 individuals mainly from Quebec sleeping in the University of Toronto Graduate Students' Union Gymnasium, who were roused from their sleep and arrested *en masse* on

June 27, 2010. The members of this group were charged with the offence of "conspiracy to commit mischief" and they were detained and then imprisoned for a total of approximately 35 to 55 hours before they were eventually brought before a Justice of the Peace and released on bail conditions. All of these charges were subsequently withdrawn by the Crown on October 14, 2010.

## *VI. Overview of the Causes of Action*

25. The Plaintiff asserts that her detention, and the arrests and detentions and/or imprisonment of the proposed class members, were unlawful and unjustified, as well as unconstitutional under the *Charter*. She thus brings this action on her own behalf, as well as on behalf of the proposed class members, for monetary damages and for Court declarations for violations of *Charter* rights.

26. The Plaintiff asserts that various unlawful acts or torts were committed against the Plaintiff and the proposed class members by police officers under the command, supervision, and jurisdiction of the Toronto Police Service and other ISU Partners. The Defendants are liable for these torts. These torts include:

(a) false imprisonment;

(b) assault and battery;

(c) conversion and trespass to chattels;

(d) abuse of public office (also known as misfeasance in public office); and

(e) negligence.

27. The Plaintiff further asserts that unlawful and unjustifiable violations of the Plaintiff's and the proposed class members' constitutional rights and freedoms were committed by police officers under the command, supervision, and jurisdiction of the Toronto Police

Service and other ISU Partners. The Defendants are directly and vicariously liable for these violations. The Plaintiff asserts that she and members of the proposed class are also entitled to constitutional declarations that the police's actions violated the *Charter* and a corresponding remedy of damages pursuant to section 24(1) of the *Charter*. Specifically, the Plaintiff alleges that police unjustifiably infringed the following rights and fundamental freedoms guaranteed by the *Charter*:

(a) "freedom of thought, belief, opinion and expression, including freedom of the press and other media of communications" (section 2(b));

(b) "freedom of peaceful assembly" (section 2(c));

(c) "freedom of association" (section 2(d));

(d) "the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (section 7);

(e) "the right to be secure against unreasonable search or seizure" (section 8);

(f) "the right not to be arbitrarily detained or imprisoned" (section 9);

(g) "the right on arrest or detention to be informed promptly of the reasons therefor" (section 10(a));

(h) "the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right" (section 10(b)); and

(i) "the right not to be subjected to any cruel and unusual treatment or punishment" (section 12).

28. The Plaintiff further asserts that police officers under the command, supervision, and jurisdiction of the Toronto Police Service, OPP, and/or Peel Police infringed the rights of the proposed Gymnasium subclass members under section 1 of the Ontario *Human Rights Code*, R.S.O. 1990, c. H.19, by discriminating against them on the basis of place of origin, specifically, on the grounds that they were Quebecois or were otherwise residents of the province of Quebec. The Toronto Police Services Board, Her Majesty the Queen in Right of Ontario, and the Regional Municipality of Peel Police Services Board, are respectively liable for these infringements.

## *VII. Unlawful Conduct for which the Defendants are Liable*

### *A. Disregard for the Class Members' Rights in Summit Security Planning*

29. The Plaintiff asserts that the Defendants are responsible for their conduct in planning, preparing, directing, and overseeing the G20 Summit security operations in a manner that was deliberately intended to violate the fundamental rights of class members; or, alternatively, that the Defendants intentionally or negligently failed to put adequate measures in place to ensure that these rights would be protected.

30. During the time leading up to and including the G20 Summit, the ISU members adopted and employed a model of policing characterized by the disproportionate use of force by police and widespread disregard of civil liberties and individual rights.

31. This model of policing, adopted by the Defendants for the G20 Summit, relies on:

(a) widespread pre-emptive detention and arrest to round up demonstrators without reasonable grounds or judicial oversight;

(b) the use of mass-detention facilities to warehouse demonstrators without due process;

(c) harassment of suspected demonstrators and journalists;

(d) the assertion of increased unlawful police search and detention powers and the abuse of such powers;

(e) the creation of large militarized no-go zones in formerly public space;

(f) the "kettling" and mass arrest of demonstrators on the street; and

(g) the use of excessive force to intimidate and disperse lawful and peaceful demonstrations.

32. This strategy also involves the creation of a climate of fear and intimidation in advance of the summit to deter citizens from participating in demonstrations and exercising their fundamental freedoms with the goal of reducing the potential size of street demonstrations.

33. The strategy accomplishes this wrongful purpose through:

(a) massive and disproportionate police presence and manifestations of force;

(b) surveillance and harassment of potential demonstrators during the lead-up to the summit; and

(c) aggressive and misleading public relations campaigns, including the portrayal of potential demonstrators as violent criminals and possible terrorists.

34. The Defendants were aware that the policing model that they adopted for the G20 Summit was likely to result in widespread violations of fundamental rights, and the Defendants accepted this outcome as part of their overall plan for Summit security operations, without regard for the harms that would result to the class members and others.

35. Thus, the Plaintiff asserts that the overall policing plan or strategy adopted by the Defendants for the G20 Summit was deliberately designed, structured, and implemented to violate the rights of the class members in order to achieve security objectives. In the alternative, this policing plan or strategy was negligently designed, structured, and implemented to achieve these security objectives with disregard for the rights of the class members and the harms that would result from the foreseeable violation of their rights.

*B. Systemic Breach of Charter Rights and Systemic Negligence*

*1. Summary of Key Actions/Omissions*

36. The Defendants, and, in particular, commanding and supervising members of the ISU and ISU-member forces responsible for planning and overseeing police operations during the G20 Summit, breached their duties owed to the class members and knowingly or negligently contributed to and participated in systemic violations of the class members' legal and constitutional rights, including through the following actions and omissions:

(a) Adopting and implementing a model of summit policing that is characterized by widespread violations of civil rights, and would foreseeably result in widespread and systemic violations of the class members' fundamental rights;

(b) Developing and implementing a policing plan or strategy that deliberately disregarded the fundamental rights of class members, or that failed to make adequate provision for the protection and exercise of these rights;

(c) Adopting and employing a policy of pre-emptive mass detention and arrest of suspected demonstrators, without reasonable grounds, and the preparation of mass detention facilities in furtherance of this policy;

(d) Adopting an institutional structure and command system that would foreseeably lead to, and foreseeably be unable to protect against, widespread and systemic violations of the class members' rights and civil liberties;

(e) Intentionally, recklessly, or negligently promoting a climate of fear and intimidation in the days leading up to and including the G20 Summit protests, for the wrongful purpose of intimidating potential demonstrators and deterring members of the public from exercising their fundamental freedoms of assembly and expression during the G20 Summit;

(f) Intentionally, recklessly, or negligently promoting the false perception among police and the public that demonstrators were likely to be criminals intent on committing acts of violence;

(g) Intentionally, recklessly, or negligently promoting an "Us-versus-Them" culture among frontline officers that would foreseeably and did lead to widespread violations of the class members' rights as well as the use of excessive force and abusive language against class members;

(h) Intentionally, recklessly, or negligently promoting the perception among frontline police officers and the public that normal legal rights and civil liberties did not apply in Toronto during the G20 Summit;

(i) Intentionally, recklessly, or negligently misrepresenting the scope of police search and detention powers during the G20 Summit, and failing to correct such statements once they were known to be false or misleading;

(j) Directing or authorizing practices, tactics, and specific actions that were likely to lead to widespread and systemic violations of class members' rights and civil liberties;

(k) Directing or authorizing the mass detention and/or mass arrest of class members who were gathered lawfully and posed no threat to public safety;

(l) Directing or authorizing the use of disproportionate force and violence against class members, without lawful justification and for the wrongful purpose of intimidating demonstrators, deterring members of the public from participating in lawful demonstrations, and punishing class members for exercising their *Charter* rights;

(m) Directing or authorizing the forceful dispersal (without adequate or audible warning) of class members who were gathered lawfully and posed no threat to public safety;

(n) Directing or authorizing the aggressive and forceful arrest of individuals within detained crowds for the wrongful purpose of intimidating and frightening those persons engaged in peaceful and lawful assembly and punishing those persons who sought to exercise their *Charter* rights;

(o) Knowingly, recklessly, or with willful blindness encouraging a policy or practice of targeting journalists (and other persons with cameras) for harassment, detention, arrest, and destruction of equipment and/or data;

(p) Authorizing and approving the use of *agent provocateurs* dressed in "black bloc" style clothing;

(q) Failing to sufficiently or properly train frontline and supervising officers;

(r) Failing to maintain clear lines of communication and command, as well as failing to properly monitor and supervise front line officers;

(s) Failing to intervene promptly to prevent or minimize the harms caused by the unlawful actions and omissions of officers under their command or supervision, upon becoming aware of these unlawful actions and omissions;

(t) Intentionally, recklessly, or negligently misrepresenting to the public (for the purpose of vilifying class members and others and justifying unlawful police conduct) that a collection of items were dangerous "weapons of opportunity" belonging to G20 Summit demonstrators, when these items were not weapons or were seized from persons who were not G20 demonstrators; and

(u) Intentionally, recklessly, or negligently misrepresenting to the public the factual circumstances surrounding the detention and arrest of class members for the purpose of publicly vilifying class members and others and justifying unlawful police conduct.

37. Such actions and omissions foreseeably caused physical, psychological, and other harms to the class members.

*2. Duty of Care to Class Members*

38. The commanding and supervising members of the Integrated Security Unit and the ISU Partners, including those officers responsible for planning and overseeing police operations during the G20 Summit, owed a duty to class members to consider and allow for the lawful exercise of class members' fundamental legal and constitutional rights. They also owed a duty to ensure that these rights were not systemically disregarded.

39. The commanding and supervising members of the ISU and ISU Partners, including those officers responsible for planning and overseeing police operations during the G20 Summit, owed a duty to class members to take reasonable care that those under their command and supervision did not engage in widespread or systemic violations of the class members' civil rights and fundamental freedoms.

40. The commanding and supervising members of the ISU and ISU Partners, including William Blair, the Chief of the Toronto Police Services, owed a duty to class members to take reasonable care that those under their command and supervision acted in accordance with their common law and statutory duties, including the fundamental duty to obey the law.

41. Commanding and supervising members of the ISU and ISU Partners acknowledged and affirmed their duty and responsibility to respect the civil rights and fundamental freedoms of demonstrators in public representations made by police officials in the days and weeks leading up to the G20 Summit.

42. Members of the proposed class, and members of the public generally, had a reasonable expectation that their participation in or association with political demonstrations related to the G20 Summit would not, without more, cause them to be detained, arrested, imprisoned, and/or charged with a criminal offence, and that commanding and supervising members of the ISU and ISU Partners would ensure that their civil rights and fundamental freedoms would not be disregarded.

*C. The Unlawful Mass Detentions and Arrests of the Class Members*

*1. No Breach of the Peace*

43. In each of the mass detention and mass arrest situations described below (i.e. the Queen and Spadina Subclass, the Esplanade Subclass, the Eastern Avenue Subclass, the Parkdale Subclass, the Queen's Park Subclass, and the Gymnasium Subclass), the targeted demonstration or gathering of people was peaceful and did not pose any risk, imminent or otherwise, of any actual or threatened harm to anyone. There was no reasonable basis to conclude that any of these targeted demonstrations or gatherings were "breaching the peace" or that any "breach of the peace" was imminent or likely to develop at all.

44. Despite this fact, police purported to rely on the "breach of the peace" power to conduct a general and indiscriminate round-up of peaceful political demonstrators and suspected demonstrators. This unjustified and systemic abuse of the "breach of the peace" power resulted in the largest mass arrest in Canadian history.

45. The purpose and effect of this general round-up was:

(a) to decrease the number of demonstrators present on the streets of Toronto;

(b) to intimidate demonstrators and potential demonstrators;

(c) to deter detained demonstrators and others from engaging in future demonstrations;

(d) to gather information on demonstrators;

(e) to collectively punish demonstrators for the acts of vandalism committed by a few individuals;

(f) to punish individuals for participating in demonstrations in Toronto; and

(g) to eliminate any potential sources of public disturbance (whether or not such disturbances were likely to materialize at all).

46. The cumulative effect of police actions was to profoundly curtail the free expression of political dissent in public streets and places during the G20 Summit.

*2. General Round-up of Demonstrators Not Made Lawful by Earlier Acts of Vandalism*

47. These mass detentions and arrests have been widely portrayed as a response to the burning of police cars and smashing of windows that took place on the afternoon of June 26, 2010. Images of these acts of property destruction have been repeatedly reproduced in

the media, creating the impression that demonstrators were unruly and destructive throughout the G20 Summit weekend.

48. In fact, the window-smashing was largely confined to a pre-announced "black bloc" march that wound its way through the downtown core for approximately an hour and a half on the afternoon of June 26. Police cars were also vandalized during that march. Only a small number of individuals participated in the window smashing and the vandalism of police cars. In some instances, peaceful demonstrators attempted to stop others from vandalizing property.

49. Police knew when the "black bloc" march was going to occur and were aware that it would likely involve property damage. As the "black bloc" march proceeded, the police were aware of its location and that windows were being smashed. The police did not intervene to attempt to prevent the property damage, despite having the ability to do so. Commanding officers allowed this property damage to continue for over an hour.

50. The subsequent general round-up of hundreds of peaceful demonstrators, including the mass detentions and arrests of the proposed class members, was not justified by the earlier unlawful conduct of a relatively small group of "black bloc" marchers. There were no reasonable grounds to believe that the proposed class members had participated in such property damage or were likely to do so.

51. This general and indiscriminate round-up was conducted in furtherance of a systemic policy of pre-emptive arrest and detention of potential demonstrators that had been adopted for the G20 Summit. This strategy of pre-emptive arrest and detention was integral to the aggressive model of policing adopted for the G20 Summit, and was pursued by police with utter disregard for the legal and constitutional rights of the class members.

## *VIII. The Plaintiff's Activities and Wrongful Detention on June 26 and 27*

52. The Plaintiff participated in demonstrations during the G20 Summit weekend. The Plaintiff had no involvement in organizing any of the demonstrations, and participated purely as an ordinary citizen expressing concerns on public issues, as is her right in Canada. The Plaintiff at no time participated in any vandalism or property damage during the June 26 and 27 weekend.

53. On Saturday, June 26, the Plaintiff and a friend joined in the organized public demonstration which began at Queen's Park and traveled south along University Avenue.

54. At Queen Street West, the demonstration turned west, and the Plaintiff began walking westward along Queen Street West with other demonstrators. After the demonstration arrived at Spadina Avenue, some of the demonstrators, including the Plaintiff, returned eastward along Queen Street West. As the Plaintiff was walking eastward, still within a block of Spadina Avenue, she saw two police cars seemingly abandoned on the street.

55. Later that afternoon, the Plaintiff joined in a peaceful demonstration that occurred near the security fence that had been erected to surround the Metro Toronto Convention Centre where G20 leaders were meeting.

56. Eventually, the Plaintiff left the demonstrations, went home, and watched the news on TV. On the news, she saw video images of the apparently abandoned police cars that she had walked past on Queen Street West, which were now shown to be in flames. She also saw images of a small number of individuals, all dressed in black, causing property damage, which was mainly breaking windows. The police did not appear to be taking steps to prevent or rectify either of these situations.

57. The next day, on the afternoon of Sunday, June 27, the Plaintiff and her friend decided to return to the demonstration area from their home nearby and potentially observe or participate in further demonstrations. They walked west along Queen Street West, not as part of any demonstration. Near the corner of Queen Street West and Bay Street, they

were stopped by police, questioned, and searched, despite the fact that the Plaintiff is in her fifties and was not acting in a threatening or disorderly fashion. The Plaintiff asserts that the questioning and search were conducted without legal justification.

58. Shortly thereafter, as the Plaintiff and her friend were continuing their walk westward, and as they approached the corner of Queen Street West and York Street, a police SUV suddenly pulled in front of them and blocked their path. Police officers from the SUV, and other officers who were nearby, surrounded and detained both the Plaintiff and her friend. The police officers proceeded to question both the Plaintiff and her friend, and to very aggressively search and interrogate her friend. Given the police officers' aggressive physical actions and the imminent threat of further physical actions (unless there was compliance), the Plaintiff and her friend complied with the police officers as they believed they would otherwise be arrested. The officers made several threatening and profanity-laced comments to her friend (such as "just give me a f**king reason to shoot you", "give me that backpack before I cut it off", and "get out of our city"), and made derogatory comments about the fact that the Plaintiff and her friend had been present at the security fence the previous day. The Plaintiff was surprised and frightened that the officers seemed to be aware of that fact, and by the way that her peaceful demonstration the day before was suggested by the officers as a justification for the search and detention.

59. During the search, the police officers seized the camera and cell phone of the Plaintiff's friend, and the officers reviewed the contents of the camera and cell phone. Prior to its seizure, the cell phone contained pictures from Saturday's demonstrations. However, after its return, the Plaintiff and her friend found that the cell phone was no longer working, and its contents had been lost.

60. Both the Plaintiff and her friend were eventually allowed to continue. They were both shocked and frightened by these infringements of their rights and freedoms. They continued walking along Queen Street West, stopping at points to try to calm down. They eventually decided to walk back eastward along Queen Street towards home.

61. While walking eastward on her way home, at approximately Queen Street West and York Street, she encountered a group of peaceful demonstrators (and non-demonstrators) who were being "herded" westward along Queen Street by a group of police. As the Plaintiff could no longer continue eastward, she began walking westward with the demonstrators who were being moved westward by the police.

62. At about the corner of Queen Street West and Spadina Avenue, the peaceful group of demonstrators and others was suddenly surrounded by hundreds of police officers in riot gear, without any warning, and without any opportunity to disperse. The group of demonstrators and others now consisted of several hundred individuals from a variety of ages and backgrounds. There was no rationale for the detainment.

63. Over a period of time, the ranks of the surrounding police officers gradually closed in on the group in an intimidating fashion using a technique commonly known as "kettling". The group was squeezed into a smaller and smaller area on the street at the intersection of Queen Street West and Spadina Avenue. People were not allowed to leave. No information was provided to them. No reason was given as to why the group was being detained.

64. The Plaintiff and others were detained for approximately four hours in a small area at this location, on the street, in the open, without access to washrooms or other basic facilities, and without the ability to leave. During this time, a severe rainstorm began and the group was forced to stand in the intersection in a sustained and heavy downpour of rain that drenched them. They had no shelter or protection, and, as time passed, many became severely chilled. During this detention, the police began to arrest random individuals in the group by suddenly rushing forward and seizing them and dragging them from inside the surrounded area. There was no logic or justification for these forceful and random arrests. Finally, after approximately four hours in these conditions, the police released the remaining detainees by allowing them to leave to the north.

65. The Plaintiff left the site of her detention drenched, cold, miserable, and angry. She was barely able to believe what had happened to her. She was unable to sleep that night.

Although the Plaintiff had never before been afraid to travel on the streets of Toronto, after her treatment by the police on the G20 Summit weekend, she found that she was very nervous to be out on the streets, because her sense of safety in public places had been undermined. Anyone in a uniform now caused her to instinctively react with wariness. For the first time in her life, the Plaintiff suffered "panic attacks" as a result of what happened to her. Her wrongful arrest and the actions of the police on that weekend have shaken her belief that her rights and freedoms were secure under the laws of Canada.

*D. The Unlawful Conduct of the Defendants With Regard to Particular Subclasses*

66. The Defendants' unlawful conduct with respect to the particular subclasses, detailed below, was the direct and foreseeable consequence of the implementation of the Defendants' overall plan and model for summit security (discussed above in paragraphs 25 to 38). The unlawful conduct with respect to each subclass is a specific manifestation of the general systemic violations by the Defendants and their overall disregard for the class members' *Charter* rights.

67. In each of the mass detention and mass arrest situations described below (i.e. the Queen and Spadina Subclass, the Esplanade Subclass, the Eastern Avenue Subclass, the Parkdale Subclass, the Queen's Park Subclass, and the Gymnasium Subclass), supervising and commanding officers were responsible for ordering, authorizing and overseeing the mass detention and mass arrest of the respective subclass members. In each of these situations, these supervising and commanding officers were aware or were recklessly indifferent to the fact that the mass detention or mass arrest of peaceful demonstrators and others was not legally justified, and that their orders or actions exceeded the lawful scope of police powers.

68. These supervising and commanding officers were also aware or were recklessly indifferent to the fact that these mass detentions and arrests would cause, and did in fact cause, the respective subclass members suffering, anxiety, humiliation, and other harms.

*1. The Queen and Spadina Subclass*

69. On the afternoon of Sunday, June 27, a peaceful political demonstration was proceeding in the vicinity of Queen Street West and Spadina Avenue.

70. Police officers in riot gear surrounded the peaceful demonstration, including participating demonstrators, bystanders, and others (collectively, the "Queen and Spadina subclass members"), by forming an absolute cordon or "kettle" around them. No warning was provided to the subclass members that the police intended to surround and detain them, and no opportunity was provided for subclass members to disperse if they did not wish to be detained. Once the police had established the cordon, they moved in further, tightening the cordon and squeezing the subclass members into a smaller and smaller area.

71. Police maintained the cordon for approximately four hours, detaining the Queen and Spadina subclass members *en masse*, without drinking water, shelter, or washroom facilities and through a severe rainstorm and rapidly dropping temperatures. Throughout this time, the police did not permit subclass members to leave the cordon, despite numerous requests to do so, and despite the absence of reasonable grounds for their continued detention.

72. Police did not inform the Queen and Spadina subclass members of any purported reason for their detention, and no reason was apparent, given the initial and ongoing peaceful tone of the demonstration. Subclass members repeatedly requested an explanation from the officers present and were simply ignored.

73. No opportunity was provided to the detained subclass members to retain or instruct counsel for the purpose of regaining their liberty and the police did not inform them of their right to do so.

74. During this mass detention, police made numerous arrests of individual demonstrators and passers-by within the subclass using a "snatch-and-grab" tactic. This involved

charging at individuals, seizing them, violently pushing them to the ground, dragging them out of the surrounded area, and forcefully restraining them by means such as kneeling on the head or back. These arrests were not founded on reasonable grounds, but were random and indiscriminate in nature, and were intended to and did intimidate the subclass members by causing them to fear imminent physical harm and arrest.

75. Arrested subclass members were handcuffed and searched, and their personal effects seized and bagged. These individuals were then placed into vans, and driven miles away to police stations or the Detention Centre, where they were later released without charge.

*2. The Esplanade Subclass*

76. On the evening of Saturday, June 26, a peaceful political demonstration was proceeding in the vicinity of the Esplanade between Yonge Street and Church Street. Demonstrators were singing and chanting.

77. Police officers in riot gear surrounded the peaceful demonstration, including participating demonstrators and others (collectively, the "Esplanade subclass members") by establishing a cordon sealing off both ends of the street. Police then closed in on the peaceful demonstration.

78. No warning was provided to the Esplanade subclass members of their imminent detention and no opportunity was provided to disperse. Other than a few accredited journalists, police did not permit subclass members, including passers-by, to leave the cordon despite numerous requests to do so and despite the absence of reasonable grounds for their detention. No explanation was provided to subclass members as to why they were being detained and were not permitted to leave.

79. A police officer then announced that everyone within the cordon was under arrest. There were no reasonable grounds for the mass arrest of the Esplanade subclass members.

80. To ensure that the demonstration remained peaceful and to reduce the risk of physical harm to themselves, many subclass members sat down on the sidewalk.

81. Police officers began a process of removing individual subclass members from the cordon, handcuffing them, physically searching them, seizing their personal effects, and placing them in Court Services vans. This process took approximately three hours, during which time the subclass members had no access to washroom facilities, food or water. During this time, subclass members were not given the opportunity to instruct or retain counsel and were not informed of their right to do so. Cell phones were seized by the police as a matter of policy or practice, preventing subclass members from communicating with legal counsel.

82. The Esplanade subclass members were then driven to and imprisoned in the Detention Centre (see Detention Centre Subclass below), before eventually being released without charge.

*3. The Eastern Avenue Subclass*

83. In the late evening of Saturday, June 26, and early morning hours of Sunday, June 27, a small peaceful demonstration was taking place in the vicinity of the Eastern Avenue Detention Centre. The tone of the demonstration was lively and positive, with demonstrators dancing on the sidewalk to the strains of an impromptu live polka-like band.

84. Demonstrators were assured by the police that the demonstration would be allowed to continue as long the demonstration remained on the north sidewalk of Eastern Avenue.

85. At approximately 2:00 a.m., police surrounded the demonstration by cordoning off the three streets by which demonstrators could leave the area. A police officer then announced over a loudspeaker that demonstrators were requested to leave the area for their own safety.

86. A few seconds later, a "second warning" was issued, and a police officer announced: "The behaviour of some members of this demonstration is causing a breach of the peace. It has been determined that reasonable grounds to arrest exist and that force may be used. For your safety, you are now for a second time being requested to leave this area." In fact, the demonstration remained peaceful and orderly at all times and no reasonable grounds existed to arrest the participants. There was no reasonable basis on which to conclude that the demonstration constituted a "breach of the peace" or was imminently likely to do so.

87. Despite the demand to disperse, the police maintained a cordon around the demonstration and no exit route was provided. Demonstrators repeatedly asked how they were expected to leave. After approximately five minutes, police created a small opening on the north sidewalk of Eastern Avenue to the west of the demonstration, and individuals began to peacefully disperse through this opening.

88. Shortly after the demonstration had ended, a line of police officers cut off and surrounded a group of approximately 40 demonstrators (collectively, the "Eastern Avenue subclass members") as they were dispersing west along Eastern Avenue, several blocks away from the Detention Centre. Police detained the subclass members in the cordon for several minutes without explanation. Subclass members asked to be told why they were being detained but these requests were ignored.

89. After several minutes, a police officer announced that the decision had been made that they would all be arrested. There were no reasonable grounds for the detention or arrest of the Eastern Avenue subclass members, who were simply walking away from the site of the demonstration in a peaceful and orderly manner.

90. Police forced subclass members to keep their hands above their heads for a period of approximately 20 minutes while the police processed them.

91. Police individually searched the subclass members, seized their personal effects, and handcuffed them. The subclass members were then put into vans and driven to the Detention Centre where they were imprisoned (see Detention Centre Subclass below).

*4. The Parkdale Subclass*

92. On the afternoon of Sunday, June 27, a peaceful political demonstration was taking place in the vicinity of Queen Street West and Noble Street.

93. Police officers with bicycles surrounded and "kettled" the peaceful demonstration, including demonstrators and others (collectively, the "Parkdale subclass members"). Police in riot gear then arrived by bus and joined the cordon. Police maintained the cordon for over an hour.

94. No advance warning was provided, and no opportunity was given to disperse.

95. Police did not permit the Parkdale subclass members to leave the cordon despite numerous requests to do so and despite the absence of reasonable grounds for their initial or ongoing detention.

96. No explanation was initially provided to the Parkdale subclass members as to why they were being detained and were not permitted to leave. No reason was apparent, given the peaceful nature of the demonstration.

97. Police officers began removing individual subclass members from the cordon, arresting, handcuffing and searching them, seizing their personal effects, and placing them in Court Services vans. One or more subclass members were strip-searched in the street in front of the rest of the demonstrators and a growing crowd of onlookers.

98. These arrests were arbitrary and made without reasonable grounds. The grounds police officers stated at the time for arresting particular individuals included the possession of a backpack or wearing black pants or a bandana.

99. Additionally, numerous individual subclass members were selected for arrest on the stated grounds that they had the telephone number of a lawyer visibly written on their body. The police were illegally using their power of arrest to punish individuals seeking to assert their constitutional rights.

100. Subclass members were not given the opportunity to instruct or retain counsel for the purpose of advising them or helping them regain their liberty and they were not informed of their right to do so. Quite the opposite: many were arrested for having the number of a lawyer on their person. Additionally, a criminal lawyer who attended the scene to offer summary legal advice to subclass members who might desire it was denied access to the cordon and was also detained by police.

101. After detaining the remaining Parkdale subclass members for approximately an hour without explanation, a police officer announced that they were looking for "trouble-makers" and that individual subclass members would be permitted to leave the cordon only if they agreed to provide identification, answer police questions, and submit to a search. Police informed the subclass members that any persons who refused to consent to this process would be arrested and criminally charged.

102. One or more supervising or commanding police officers ordered that the Parkdale subclass members be arrested unless they consent to be questioned and searched, without the benefit of legal advice. These officers were personally aware or were recklessly indifferent to the fact that there was no lawful authority or justification for these orders. These officers were also aware that the unlawful questioning and searching of all subclass members would undermine their personal dignity and cause them suffering and humiliation, as it in fact did.

103. These officers were aware or recklessly indifferent to the fact that they were using the police power of arrest to punish individuals who refused to submit to a wrongful detention and wrongful search.

104. Rather than face arrest, most, if not all, remaining Parkdale subclass members submitted to the police's demands, as they had no meaningful option to refuse. Police then proceeded to identify, question, and search these subclass members, who were released at the scene without charge.

105. Arrested subclass members were placed in Court Services vans and imprisoned in the Detention Centre, before eventually being released without charge (see Detention Centre Subclass below).

*5. The Queen's Park Subclass*

106. On the afternoon of Saturday, June 26, after demonstrations earlier in the day had concluded, many demonstrators gathered in the vicinity of Queen's Park. This area had been widely publicized by authorities as a "free speech zone" or safe area where demonstrations would be permitted, and where those wishing to exercise their fundamental freedoms were encouraged to do so.

107. The larger demonstration from earlier in the day had concluded, and most demonstrators were sitting or standing in small groups, spread out across the north and south lawns of Queen's Park. Some chanting and singing continued but many people were simply resting on the grass or talking with each other.

108. While one or more isolated individuals challenged or taunted police lines, the vast majority of people gathered on the lawn remained peaceful and calm. At least one individual "provoking" the police at this location, masked and dressed in black, was a police agent. This agent's role was to provide the police with a purported "justification" for what followed.

109. Without any warning, or any warning audible to people gathered in the vicinity, police charged onto the lawns of Queen's Park. Police officers on horses charged through the crowd, randomly striking demonstrators with truncheons. Groups of police officers, some in riot gear and others in plain clothes, began to arrest individuals (collectively, the

"Queen's Park subclass members") primarily using the "snatch-and-grab" tactic described above at paragraph 74.

110. Many Queen's Park subclass members were gratuitously kicked, punched and beaten with truncheons by police during their arrests, without any justification.

111. These arrests were not founded on reasonable grounds. They were of a random and indiscriminate nature and were intended to clear the area by intimidating other demonstrators, causing them to fear imminent physical harm and arrest.

112. Upon arrest, subclass members were handcuffed and searched and their personal effects were seized and bagged. They were then placed into vans and taken to the Detention Centre where they were imprisoned (see Detention Centre Subclass below). Many were later released without charge.

113. Other Queen's Park Subclass members were arrested and charged with unlawful assembly and related offences (such as obstruct police or resist arrest). These arrests were made unlawfully and without just cause. There were no reasonable grounds to believe that the gathering of people at Queen's Park constituted an unlawful assembly. There was no justification or lawful authority for the police to disperse people from Queen's Park. Consequently there were no reasonable grounds to arrest or charge people in relation to any alleged failure to follow police directions, or to obstruct the police in their efforts to remove people from the area, as these police efforts were unlawful and unjustified.

114. The police did not have any legal justification for violently driving demonstrators from the north and south lawns of Queen's Park, or for beating or arresting those who failed to flee quickly enough. The crowd, already relatively dispersed across the lawns, was behaving peacefully. The aggressive actions or appearance of one or more isolated individuals, including one or more police agents, did not cause anyone to reasonably fear that the groups of people scattered across the lawns would imminently become tumultuous or violent.

*6. The Residual Subclass (Persons Arrested at Other Locations)*

115. On Saturday, June 26, and Sunday, June 27, many other individuals were preemptively arrested by police at other times and locations throughout the downtown Toronto area in connection with G20 Summit demonstrations, and later released without charge (collectively, the "Residual subclass members").

116. The police adopted a policy and/or systemic practice of indiscriminately stopping individuals who appeared to be associated with the G20 demonstrations for questioning or preemptive searches.

117. Individuals were often detained solely on the basis of their age or manner of dress (such as wearing a black article of clothing or a T-shirt with a political slogan). As a matter of police policy and/or systemic practice during the weekend, such people were routinely (and unlawfully) subjected to searches for evidence that might provide some semblance of a rationale or excuse to arrest the apparent demonstrators.

118. According to the policy and/or systemic practice adopted by the police during the G20 Summit, in conjunction with the appearance of being a potential political demonstrator, the following were (erroneously) deemed to be reasonable grounds for pre-emptive arrest:

(a) speaking French and/or being from Quebec;

(b) having the telephone number of a lawyer;

(c) refusing to consent to a search; or

(d) having any of several items, including:

i. a water bottle;
ii. a bike helmet;
iii. an umbrella;

iv. a bandana;

v. a dust mask or respirator;

vi. goggles;

vii. ear plugs;

viii. vinegar or lemon juice (for limited relief from tear gas);

ix. antacid solution (for potential use as an eyewash);

x. a first aid kit;

xi. a black article of clothing; or

xii. a placard.

119. In accordance with police policy and/or systemic practice during the weekend, Residual subclass members who were found in possession of these items were preemptively arrested and (erroneously) told they would be charged with a criminal offence, such as mischief (e.g. for having a bandana, goggles, a first aid kit, a lawyer's telephone number, etc.) or possession of a weapon (e.g. for having an umbrella, vinegar, a water bottle, a placard, etc.). Residual subclass members were handcuffed and their personal effects were seized. They were then transported to the Detention Centre where they were imprisoned before eventually being released without charge (see Detention Centre Subclass below).

120. Under these policies and/or systemic practices, arresting officers were not required or encouraged by their commanding officers to consider whether there were actually reasonable grounds to arrest an individual for a breach of the peace (i.e. whether a potential arrestee reasonably posed a substantial risk of imminent harm, actual or threatened, to any individual, or whether the legal requirements for a pre-emptive arrest were otherwise met in the circumstances) before conducting the arrest. Rather, under these policies and/or systemic practices, front line police officers were permitted and encouraged to make arrests regardless of whether the legal requirements were met in the circumstances.

121. Residual subclass members were pre-emptively arrested despite the fact that they were not participating in a breach of the peace at the time of their arrests, and that there was no

reasonable basis on which to believe that they were imminently about to do so. The possession of items indicating an intent to participate in a public demonstration did not, in the circumstances, constitute reasonable grounds to believe that a person was about to breach the peace.

122. The above policies and/or systemic practices, adopted by the police during the G20 Summit, were unreasonable and unlawful. These policies and practices authorized wholesale breaches of *Charter* rights and freedoms on a city-wide systemic scale previously unheard of in Canadian history.

123. The policies and/or systemic practices were developed, adopted, endorsed, and communicated by commanding or supervising officers. These officers were aware that the policies and/or systemic practices mandated or encouraged conduct that exceeded the lawful exercise of police powers, and that such policies would precipitate the systemic mass violation of the individual rights of the subclass members and would cause them humiliation and suffering, as in fact occurred.

*7. The Gymnasium Subclass*

124. On the morning of Sunday, June 27, at approximately 9:00 a.m., police surrounded and entered the University of Toronto Graduate Students' Union Gymnasium at 16 Bancroft Avenue (the "Gymnasium") where approximately 70 individuals were temporarily staying during the G20 Summit. Police arrested every person they found in or around the Gymnasium (collectively, the "Gymnasium subclass members"), and subsequently charged them with the criminal offence of "conspiracy to commit mischief to property with a value over $5000", under s. 465(1)(c) of the *Criminal Code*.

125. Almost all of these individuals had traveled to Toronto from Quebec (or, in the case of several individuals, from British Columbia) to participate in political demonstrations related to the G20 Summit, and they were staying at the Gymnasium through an arrangement with the University of Toronto Graduate Students' Union (the "GSU"). The GSU had offered the Gymnasium, which it leases from the University of Toronto, as

overnight accommodation for demonstrators who did not have any other place to sleep while they were in Toronto.

126. The GSU prepared and distributed instructions about the precise arrangements and policies for the limited use of the GSU Gymnasium, lounge and washrooms (e.g. no alcohol, no weapons, etc.), and guests were asked to sign a waiver document. The Gymnasium subclass also includes several GSU representatives who were present to ensure the safety and security of their guests and the building and who were also arrested.

127. Most of the Gymnasium subclass members had traveled to Toronto from Montreal on buses that had been arranged by grassroots organizations in Montreal. In the days and weeks leading up to the G20 Summit, posters were placed in the Montreal universities and at other locations in the city advertising return passage to the G20 Summit in Toronto on these buses for $20 per person. Hundreds of individuals took advantage of this offer, and many such buses were filled. Most of these individuals were not members or otherwise affiliated with the particular grassroots organizations that had arranged for the buses.

128. The GSU Gymnasium was not used as a planning or organizing space for demonstrators, but only as a place for demonstrators to sleep on the nights of June 25 and 26. Most Gymnasium subclass members had never met each other before.

129. Members of the Gymnasium subclass did not plan activities or participate in the political demonstrations of June 26 as a cohesive group, or as a set of such groups. No planning meetings took place among the Gymnasium subclass members as a group. There was no common intention among the Gymnasium subclass members to pursue any unlawful purpose, and there were no reasonable grounds to believe that any such common intention existed among the Gymnasium subclass members.

130. At the time of entry, police did not have a warrant to search the Gymnasium or to enter the Gymnasium for the purpose of arresting the subclass members. Indeed, the police did

not obtain a search warrant until approximately 4:00 p.m. that day, approximately seven hours **after** the arrests took place.

131. Nonetheless, on the morning of Sunday, June 27, at approximately 9:00 a.m., police surrounded and entered the GSU Gymnasium with weapons drawn and arrested everyone present. The majority of the Gymnasium subclass members were sleeping as police entered the Gymnasium; others, already awake, were arrested in the hallway immediately prior to the police entering the Gymnasium.

132. A police officer announced, in English, that the Gymnasium subclass members were "under arrest for participating in an unlawful assembly". A second officer then announced, in French, that the Gymnasium subclass members were under arrest for participating in a riot (i.e. "participé à une émeute"). The police officers announced that the subclass members had the right to retain and instruct counsel once they had been processed. Police informed the Gymnasium subclass members that they must remain seated and not move until requested to stand by an officer.

133. Police officers then began selecting individuals for processing. These individuals were taken away, questioned, searched, and handcuffed. Their personal effects were seized.

134. Some Gymnasium subclass members were initially video-recording these events as they occurred. A police officer then announced that all cameras and video recording devices must be turned off, which was done. Police subsequently took away each of the individuals who had been observed using a camera or video-recording device, and these devices were seized. These individuals were questioned, searched, and handcuffed, and their personal effects were seized.

135. Police then proceeded to take away any individuals who asked questions (e.g. whether police had a warrant) or who otherwise questioned or challenged the lawfulness and validity of police actions. These individuals were questioned, searched, and handcuffed, and their personal effects were seized. The police were punishing individuals who dared to assert their constitutional rights in the face of an obviously illegal detention.

136. Eventually, all of the Gymnasium subclass members were processed in this manner. The process took approximately five hours, and police removed the last subclass member from the GSU Gymnasium at approximately 2:00 p.m.

137. While some police officers in the Gymnasium initially allowed a few individuals to be escorted to the toilet, this practice was stopped altogether after one officer announced that a particular member of the subclass had made an insulting remark to him. The denial of access to a toilet for many hours caused the Gymnasium subclass members a great deal of humiliation and discomfort.

138. Once processed, the Gymnasium subclass members were paraded in front of a group of journalists outside the Gymnasium and then transported to and imprisoned in the Eastern Avenue Detention Centre (see "Detention Centre subclass" below).

139. All Gymnasium subclass members were eventually subjected to a strip-search at the Detention Centre, as a matter of policy. No individualized assessment was made of the individual subclass members, as to whether a strip search was necessary or appropriate in the circumstances. These strip searches were not conducted upon entry to the Detention Centre, but rather **after** the subclass members had already been lodged in cages for several hours. There was no justification for this conduct other than to deliberately punish and humiliate the Gymnasium subclass members for traveling to Toronto for the purpose of exercising their *Charter* right to free speech and assembly. These strip searches were degrading and humiliating to the subclass members.

140. After many hours of detention, the Gymnasium subclass members were all eventually informed that they would be charged with "conspiracy to commit an indictable offence" under section 465(1)(c) of the *Criminal Code*, specifically, "mischief to property with a value over $5000".

141. Approximately 35 hours after their initial arrest, Gymnasium subclass members were transported to the Ontario Court of Justice at 2201 Finch Avenue West.

142. At approximately 9:00 p.m. on Monday, June 28, the first few Gymnasium subclass members were brought before a Justice of the Peace. Approximately 10 individuals were ordered released on conditions by the Justice of the Peace at this time. The remaining subclass members were returned to holding cells without a bail hearing. At approximately 4:00 a.m., Tuesday, June 29, police transported these remaining subclass members to provincial prisons for the remainder of the night.

143. Male Gymnasium subclass members (excluding the few who had been released) were taken to the Maplehurst Correctional Complex where they were subjected to additional strip searches. These strip searches took place in an open environment in the presence of the other detainees. Subclass members at Maplehurst were also injected with hypodermic needles under the threat of force if they refused. They were informed that this was for medical testing purposes. They were then lodged in cells overnight, before being returned to the holding area of the Finch Avenue courthouse on Tuesday, June 29.

144. Female Gymnasium subclass members (excluding the few who had been released) were taken to the Vanier Centre for Women where they were subjected to additional strip searches. These searches took place in full view of male staff members. They were then lodged in cells overnight, before being returned to the holding area of the Finch Avenue courthouse on Tuesday, June 29.

145. The Gymnasium subclass members (excluding the few who had already been released) appeared before a Justice of the Peace over the course of the day and into the evening on Tuesday, June 29. They were released on strict conditions, which routinely included, among other conditions, a deposit and banishment from Toronto (except to appear in court).

146. While they were detained in these various facilities, including the Detention Centre, Gymnasium subclass members were routinely and systemically subjected to discriminatory and abusive remarks from the police officers who guarded and escorted them. These remarks were generally directed to the fact that the Gymnasium subclass members were francophone and/or Quebec residents. Subclass members were informed

by police officers at the Detention Centre that persons who spoke fluent English would be processed first. Subclass members were also informed that if they requested to appear before the court in French they would be subjected to an additional period of detention.

147. All charges against the Gymnasium subclass members were withdrawn by the Crown on October 14, 2010.

*8. The (Overlapping) Detention Centre Subclass*

148. Most of the proposed class members arrested in relation to the G20 demonstrations on Saturday, June 26, and Sunday, June 27, were imprisoned in the Eastern Avenue Detention Centre (collectively, the "Detention Centre subclass members").

149. The seven subclasses described above include some, but not all, class members who were charged with criminal offences. The above seven subclasses include those charged at Queen's Park (with unlawful assembly or related offences) and at the University of Toronto Gymnasium, but do not include class members charged in other circumstances ("Other Charged Individuals") who were also imprisoned in the Detention Centre. These Other Charged Individuals are included in the Detention Centre Subclass, and the Plaintiff asserts claims arising from their imprisonment along with all the other individuals who were imprisoned in the Detention Centre.

150. These Other Charged Individuals are not included in the above seven subclasses because the claims asserted herein on their behalf do not relate to the circumstances or validity of their initial individual arrests or detentions. That is, rather, the claims asserted on their behalf are based on the facts and issues relating to the Detention Centre and prisoner processing (as described herein), which they experienced in common with the other Detention Centre Subclass members.

151. The Detention Centre was a temporary prison constructed inside a large unused film industry building near downtown Toronto, specifically to be used during the G20 Summit. Many hundreds of demonstrators and others, including by-standers and

journalists, were held in the Detention Centre in conditions which were deplorable, inhumane, and unnecessary, especially considering the hundreds of millions of dollars spent on G8-G20 policing and security, and the considerable length of time police had been given to plan for the G20 Summit.

152. Police officers owed a duty of care to those who were in their custody or detained and imprisoned under their control, command, or supervision. This duty was owed to all subclass members imprisoned in the Detention Centre. Police officers breached this duty by maintaining inhumane conditions within the detention centre, causing Detention Centre subclass members to suffer physical and psychological harms.

153. Detention Centre subclass members were locked inside metal wire cages in groups as large as approximately 40 people. By Sunday, some of these cages were so overcrowded that there was not enough room for everyone to sit on the floor. Conditions within the cages, and the Detention Centre generally, were punitive and inhumane and caused the subclass members considerable humiliation, suffering, and distress.

154. Subclass members were photographed and subjected to searches of their persons. All personal effects, including medication and cell phones, were seized as a matter of routine policy. Police even routinely seized such basic personal items as eyeglasses and feminine hygiene products. No individualized assessments were made as to whether subclass members could retain personal items or have access to them for medical or other purposes during their imprisonment.

155. Subclass members repeatedly requested to be allowed to speak to a lawyer but were denied the opportunity to do so without delay. Subclass members who were minors were also denied the opportunity to contact their families. Those who were eventually permitted to use one of the few telephones provided were only allowed to do so after many hours of detention.

156. As a matter of routine policy and practice within the Detention Centre, police questioned and interrogated subclass members before providing them with an opportunity to speak to

a lawyer. Direct requests to consult with counsel before responding to police questions were routinely denied.

157. Numerous lawyers telephoned or attended at the Detention Centre in person to attempt to contact clients who were imprisoned there. Such attempts were generally unsuccessful, as police did not permit lawyers to speak with Detention Centre subclass members as a matter of policy.

158. Detention Centre subclass members who were told that they were arrested for certain offences, such as possession of a weapon (which included possession of such items as water bottles, placards, and lemon juice) or conspiracy to commit mischief, were subjected to a strip search as a matter of policy. Strip searches were routinely conducted, not upon entry to the Detention Centre, but shortly prior to a subclass member's release (including release without charge), **after** the subclass member had already been imprisoned in crowded cells for many hours. There were no reasonable grounds to conduct strip searches of the subclass members other than to punish these subclass members for seeking to exercise their constitutional rights, and no individualized assessments were made as to the necessity of conducting strip searches for individual subclass members.

159. Police used air conditioning units to deliberately maintain abnormally cold temperatures within the Detention Centre. It was apparent to the police officers within the Detention Centre that the extreme cold was causing the subclass members, many of whom were dressed for warm summer weather, considerable suffering and discomfort. Despite numerous requests and complaints regarding the excessive cold, police routinely denied subclass members access to blankets or warm clothing. Many had to resort to huddling together with strangers or on the floor of the portable toilets in an attempt to maintain body temperature.

160. Police intentionally, recklessly, or negligently failed to provide an adequate amount of drinking water to Detention Centre subclass members. Requests for water were routinely denied despite the fact that it was apparent to police within the Detention Centre that the

lack of drinking water was causing many subclass members considerable suffering and distress. Police also intentionally, recklessly, or negligently failed to provide the imprisoned subclass members with sufficient food, further aggravating the effect of the cold temperatures on the subclass members.

161. Medical attention, though frequently requested, was routinely denied to subclass members until an individual lost consciousness or a potential emergency situation had developed.

162. The police deliberately denied subclass members access to the necessities of life for the purpose of "punishing" subclass members for having been arrested. These punishments compounded previous illegal police conduct.

163. In addition, subclass members were routinely subjected to sexist, racist, and homophobic remarks and insults by police officers within the Detention Centre. Police removed subclass members they perceived to be homosexual and isolated them in separate cells against their will. At the same time, minor subclass members were kept together with adults instead of being separated.

164. Prior to their release, Detention Centre subclass members who had been preemptively arrested without charge were video recorded and required to agree, on camera, to a standard prepared statement that they would not unlawfully participate in any protest related to the G20.

165. Subclass members were held in the Detention Centre for an arbitrary and excessive length of time, and without any necessity or reasonable grounds for their continued detention. The decision to continue to hold subclass members in the Detention Centre was made in a generalized way without an assessment of the necessity or grounds for detaining individual subclass members.

166. Detention Centre subclass members who had been preemptively arrested, purportedly under the breach of the peace power, were routinely detained for over 20 hours, some for

well over a day, before being released without charge. The vast majority of subclass members were not released until after the G20 Summit had concluded, and many were detained well beyond the end of the G20 Summit.

167. Detention Centre subclass members who had been arrested in the University of Toronto Gymnasium and charged with conspiracy to commit mischief (Gymnasium Subclass members) were detained for approximately 35 hours before they were transferred out of the Detention Centre to other detention facilities.

168. These and the other Detention Centre subclass members who were criminally charged were systemically and arbitrarily detained for an excessive and unjustified period of time before being brought before a Justice of the Peace for a bail hearing, contrary to their rights under the *Charter* and at common law, and contrary to the Defendants' obligations under section 503 of the *Criminal Code of Canada*.

169. None of the Detention Centre subclass members who were criminally charged were released under section 498 of the *Criminal Code,* for example, on a promise to appear or an undertaking. Instead, these subclass members were all held for an extended period of time for bail hearings, without regard to whether there were reasonable grounds to do so in each case. This was done pursuant to an unreasonable and unlawful policy, systemic practice, and/or decision that all G20 detainees who were charged with an offence should be held for a bail hearing. The police (including the officer(s) in charge) did not consider on a case-by-case basis whether there were reasonable grounds to believe the continued detention of each subclass member was necessary, and were not given the discretion to release subclass members on this basis. Thus, by applying this blanket policy or systemic practice, the police failed to discharge their duties under the *Criminal Code*, including under section 498, and arbitrarily detained these charged subclass members.

170. The Defendants deliberately or recklessly violated the rights of these subclass members by carrying out a policy or systemic practice of detaining all charged people for a bail hearing without considering release options, failing to bring them before a Justice of the Peace in a timely manner, and by failing to make prior arrangements for sufficient

resources to be available for the timely processing of prisoners. The Defendants systemically delayed the processing of prisoners and routinely held charged individuals for a bail hearing in order to prevent the subclass members from participating in any further political demonstrations during the G20 Summit.

171. After being released, many Detention Centre Subclass members found that some or all of their personal items that had been seized by police (e.g., cell phones, identification, medication, etc.) were either missing, destroyed or still being detained. While some of these detained items were eventually returned, weeks or months later, many such items were never returned.

## *IX. Summary of How Alleged Torts and Charter Violations Apply to Proposed Subclasses*

172. Based on the above facts, the following chart summarizes how each of the previously listed torts and *Charter* violations alleged by the Plaintiff are applicable to each of the proposed subclasses:

| Tort / Charter Violation | Applicable To |
|---|---|
| (a) False imprisonment | All class members (for the Other Charged Individuals, false imprisonment is pleaded in relation to the excessive length of their detention, and not in relation to the individual circumstances of their arrests) |
| (b) Assault & Battery | Queen and Spadina Subclass, Esplanade Subclass, Eastern Avenue Subclass, Parkdale Subclass, Queen's Park Subclass, Gymnasium Subclass, and Residual Subclass |
| (c) Conversion & Trespass to | All class members except members of the |

| | | |
|---|---|---|
| | Chattels | Queen and Spadina subclass who were not arrested |
| (d) | Abuse of Public Office | All class members |
| (e) | Negligence | All class members |
| (f) | *Charter*, s. 2(b), (c) and (d) | All class members |
| (g) | *Charter*, s. 7 | All class members |
| (h) | *Charter*, s. 8 | All class members except members of the Queen and Spadina subclass who were not arrested |
| (i) | *Charter*, s. 9 | All class members (for the Other Charged Individuals, arbitrary detention is pleaded in relation to the excessive length of their detention, and not in relation to the individual circumstances of their arrests) |
| (j) | *Charter*, s. 10(a) | Queen and Spadina Subclass, Esplanade Subclass, Eastern Avenue Subclass, and Parkdale Subclass (i.e. all class members who were "kettled") |
| (k) | *Charter*, s. 10(b) | All class members |
| (l) | *Charter*, s. 12 | Overlapping Detention Centre Subclass |

| | |
|---|---|
| (m) Discrimination under *Human Rights Code* (TPS, OPP, and Peel Police) | Gymnasium Subclass |

## *X. Damages*

173. The Plaintiff accordingly seeks, on her own behalf and on behalf of the proposed class members for this action, appropriate remedies and damages against the Defendants for the above torts, legal breaches, and *Charter* violations.

174. The Plaintiff specifically seeks damages under s. 24(1) of the *Charter* for violation of the class members' constitutional rights and freedoms, in order to compensate the class members for their suffering and loss of dignity, to vindicate these fundamental rights, and to deter systemic violations of a similar nature at future political demonstrations.

175. The Plaintiff seeks additional damages on behalf of those proposed class members who were strip-searched by police.

176. The Plaintiff seeks further additional damages on behalf of those proposed class members whose property was lost, destroyed, or damaged while in police custody, or whose electronic data (including but not limited to digital photographs) was erased or made inaccessible by police.

177. As a result of the Defendants' wrongdoing, the Ontario Health Insurance Plan has suffered damages related to past and future medical treatment of the proposed class members for which it is entitled to be compensated by virtue of its subrogated and direct rights of action in respect of all past and future insured services. The Plaintiff pleads and relies upon s. 31(1) of the *Health Insurance Act*, R.S.O. 1990, Chap. H.6, and claims for the cost of the insured services as described in s. 31 of that act, in addition to the claims and amounts described in paragraph 1.

178. Given the widespread and systemic nature of the wrongs and constitutional violations committed by police and the gratuitously high-handed and abusive conduct involved, and to ensure that these practices do not become the *de facto* model for policing future political demonstrations in Canada, the Plaintiff also seeks, on her own behalf and on behalf of the class members for this action, appropriate aggravated, special, exemplary, and punitive damages against the Defendants.

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2nd Fresh as Amended Date: October 12, 2011

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v.

**TORONTO POLICE SERVICES BOARD et al**
Defendants

Court File No. CV – 10 – 408131 00CP

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

# 2nd FRESH AS AMENDED STATEMENT OF CLAIM

**Notice of Action Issued on August 5, 2010**


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