

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

~~THE HONOURABLE JUSTICE ASTON -~~  
THE HONOURABLE JUSTICES ~~ASTON, NORDHEIMER &~~ ~~NORDHEIMER -~~ FRIDAY, THE 6<sup>th</sup> DAY OF  
~~ASTON, NORDHEIMER &~~ ) AUGUST, 2014  
~~LINHARES de SOUSA~~ )  
~~THE HONOURABLE JUSTICE LINHARES de SOUSA -~~

BETWEEN:

**SHERRY GOOD**

Plaintiff  
(Appellant)

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  
(Respondent)

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS APPEAL** by Sherry Good for an order setting aside the Orders of the Honourable Justice Horkins dated May 24, 2013 and September 16, 2013 and for other relief was heard on June 23 and 24, 2014, at Toronto, ~~Osgoode Hall, 130 Queen Street West, Toronto Ontario.~~

**ON READING** the Exhibit Book, the Appellant's Appeal Book and Compendium, the Respondent's Compendium, and the Facta of the Appellant, Respondent, and the Law Foundation of Ontario, and on hearing the submissions of the lawyers for the Appellant and Respondent, ~~and~~ ~~Judgement~~ having been reserved until this day, ~~-~~

1. **THIS COURT ORDERS** that the Orders of the Honourable Justice Horkins in this matter dated May 24, 2013 and September 16, 2013 are set aside.
2. **THIS COURT ORDERS** that the claims relating to the Detention Centre Subclass are severed from the claims relating to the Location Based Subclasses (i.e. the Queen and Spadina, Esplanade, Eastern Avenue, Parkdale and Gymnasium subclasses) so that they will continue as two separate actions (respectively, the "Location Based Subclasses Action" and the "Detention Centre Action").
3. **THIS COURT ORDERS** that the Location Based Subclasses Action and the Detention Centre Action are both hereby certified as class proceedings.
4. **THIS COURT ORDERS** that the Plaintiff is granted leave to file a Fresh as Amended statement of claim for the Location Based Subclasses Action in Court File Number CV – 10 – 408131 00CP.
5. **THIS COURT ORDERS** that the Plaintiff's counsel file a statement of claim for the Detention Centre Action, to be assigned a new Court File Number.
6. **THIS COURT ORDERS** that, for the Location Based Subclasses Action:
  - a. The class is those individuals who were:
    - i. Arrested or subjected to mass detention 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");

- ii. Arrested or subjected to mass detention 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");
  - iii. Arrested or subjected to mass detention 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");
  - iv. Arrested or subjected to mass detention 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"); and
  - v. Arrested at the University of Toronto Graduate Students' Union Gymnasium on the morning of June 27, 2010 (the "Gymnasium Subclass").
- b. The representative plaintiff is Sherry B. Good.
- c. The nature of the claims asserted on behalf of the class are claims for damages and other relief against the Respondent relating to conduct by police during the 2010 G20 summit in Toronto.
- d. The relief sought by the class is general damages, aggravated and special damages, punitive and exemplary damages, declarations, expunging of records, prejudgment and postjudgment interest, costs (together with postjudgment interest thereon), and such further and other relief as the Court may deem just.
- e. The common issues for the class are:
  - i. Did each mass detention and/or arrest (or the prolonged duration thereof) constitute (a) false imprisonment of the respective subclass members at

common law and/or (b) arbitrary detention or imprisonment contrary to s. 9 of the *Charter* including a determination whether the mass detentions and/or arrests are justified under s. 1?

- ii. If the Defendant breached the class members' common law or *Charter* rights, can the Court make an aggregate assessment of damages as part of the common issues trial?
- iii. Was the Defendant guilty of conduct that justifies an award of punitive damages?
- iv. Are declarations regarding the lawfulness of certain police actions and/or tactics during the G20 Summit warranted?
- v. Are orders requiring the Defendant to expunge stipulated records warranted?

7. **THIS COURT ORDERS** that, for the Detention Centre Action:

- a. The ~~class~~ is those individuals who were arrested and imprisoned in the Eastern Avenue Detention Centre beginning on June 26 or 27, 2010.
- b. The representative plaintiff is Thomas Howard Taylor.
- c. The nature of the claims asserted on behalf of the class are claims for damages and other relief against the Respondent relating to the operation of the Eastern Avenue Detention Centre during the 2010 G20 summit in Toronto.
- d. The relief sought by the class is general damages, aggravated and special damages, punitive and exemplary damages, declarations, expunging of records, prejudgment and postjudgment interest, costs (together with post-judgment interest thereon), and such further and other relief as the Court may deem just.


- e. The common issues for the class are:
- i. Did the conditions or treatment of the class members within the Eastern Avenue Detention Centre amount to cruel and unusual treatment or punishment under s. 12 of the *Charter*?
  - ii. Did the Defendant owe a duty of care to the Detention Centre class members, and if yes, did the conditions and/or treatment of detainees in the Eastern Avenue Detention Centre amount to a breach of that duty of care?
  - iii. Did the Defendant infringe the respective class members' rights under s. 10(b) of the *Charter* (i.e. the right to retain and instruct counsel without delay and to be informed of that right)?
  - iv. Did the Defendant detain the class members for an excessive and/or unnecessarily long time, such that their ongoing detention constituted false imprisonment or arbitrary detention contrary to s. 9 of the *Charter*?
  - v. If the Defendant breached the class members' common law or *Charter* rights, can the Court make an aggregate assessment of damages as part of the common issues trial?
  - vi. Was the Defendant guilty of conduct that justifies an award of punitive damages?

8. **THIS COURT ORDERS** that the form and manner of notice, as well as the timing of any procedure for opting out of the class, shall be addressed by way of a judge of the Superior Court and by way of separate Order.

9. **THIS COURT ORDERS** that, for costs of the appeal, the Respondent pay \$55,000 plus reasonable disbursements of \$10,027.62 plus applicable taxes of \$8,393.79 to the Plaintiff, ~~the~~ *the amount having been agreed between the parties. -mj*
10. **THIS COURT ORDERS** that the parties may file written submissions on the costs of the original certification motion, that the Appellant (including the Law Foundation of Ontario) shall file their submissions within thirty days of August 6, 2014, that the Respondent shall file its submissions within fifteen days thereafter, that the submissions of each party shall not exceed ten pages in length, and that no reply submissions shall be filed without leave of the Court.

**THIS ORDER BEARS INTEREST** at the rate of 3% per cent per year commencing on August 6, 2014.

  
Assistant Registrar, Divisional Court

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO: 19
LE / DANS LE REGISTRE NO.: 312
NOV 07 2014
PER / PAR: 

		Divisional Court File No. 288/13 Superior Court File No. CV-10-408131 00CP)	
<b>SHERRY GOOD</b> Plaintiff/Appellant	- and -	<b>TORONTO POLICE SERVICES BOARD et al.</b> Defendants/Respondent	
		<b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b> <b>DIVISIONAL COURT</b> PROCEEDINGS COMMENCED AT TORONTO	
		<b>ORDER</b>	
		<b>BORDEN LADNER GERVAIS LLP</b> Barristers and Solicitors Scotia Plaza 40 King Street West Toronto, ON M5H 3Y4  <b>Kevin McGivney/Cheryl Woodin/Damian Hornich</b> LSUC No. 32370R/40720P/58606Q Tel: (416) 367-6118/(416) 367-6270/(416) 367-6247 Fax: (416) 361-2471/(416) 361-7336/(416) 361-2722  Lawyers for the Defendants/Respondent Toronto Police Services Board	