

COURT FILE NUMBER:


COURT: COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE: CALGARY

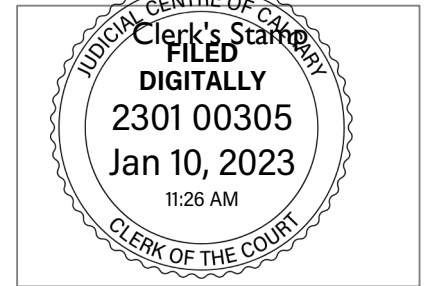
PLAINTIFFS: DURANGO LIVESTOCK LTD.,
VANDERNBERG FEEDERS LTD., and
628016 ALBERTA LTD.

DEFENDANT: ROYAL CANADIAN MOUNTED POLICE

DOCUMENT: **STATEMENT OF CLAIM**

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FILE NO.: 01096C-CW



NOTICE TO DEFENDANT

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Statement of facts relied on:

The Parties

1. The Plaintiff, Durango Livestock Ltd. (“**Durango**”) is a body corporate incorporated pursuant to the laws of the Province of Alberta (“**Alberta**”), with a registered office at Box 1508, Fort Macleod, Alberta. At all material times, Durango owned a 2007 Deere 200D LC hydraulic excavator, serial number FF200DX510073 (“**Excavator A**”).
2. The Plaintiff, Vandernberg Feeders Ltd. (“**Vandernberg**”) is a body corporate incorporated pursuant to the laws of Alberta, with a registered office at 600, 220 - 4 Street South, Lethbridge,

Alberta. At all material times, Vandenberg owned a 2012 Case CX350B hydraulic excavator, serial number N85AP138, (“**Excavator B**”).

3. The Plaintiff, 628016 Alberta Ltd. (“**628016**”) is a body corporate incorporated pursuant to the laws of Alberta, with a registered office at 410 - 6 Street South, Lethbridge, Alberta. At all material times, 628016 owned a 1992 CAT 235C hydraulic excavator, serial number 5AF01469, (“**Excavator C**”).
4. Hereinafter, Durango, Vandenberg, and 628016 are collectively referred to as the “**Plaintiffs**”.
5. Hereinafter, Excavator A, Excavator B, and Excavator C are collectively referred to as the “**Excavators**”.
6. The Defendant, the Royal Canadian Mounted Police, K Division, (the “**RCMP**”) is a federal and national police service of Canada and provides contracted front-line policing services in rural Alberta under the direction of the provincial government. The *Royal Canadian Mounted Police Act*, RSC 1985, c R-10, governs the RCMP.
7. K Division RCMP provides federal, provincial, municipal, and First Nations policing services in Alberta. At all material times, the RCMP had active operations in and around the village of Coutts, Alberta and the town of Milk River, Alberta.

Timeline of Events and Police Destruction of Private Property and Vandalism

8. In January and February of 2022, protest demonstrations broke out against restrictive government mandates relating to COVID-19. The protest demonstrations took place at and near the village of Coutts, Alberta, at and near the Sweetgrass-Coutts Border Crossing, near the town of Milk River, Alberta, and on and around Highway 4 in Southern Alberta (the “**Coutts Protest**”).
9. The Plaintiffs provided permission to four individuals (the “**Operators**”) to move the Excavators to private property such that they would be visible from Alberta Highway 4 (the

“**Highway**”) and to hang flags on the Excavators in support of the Coutts Protest. The permission was granted on the condition that nothing illegal was to be done with the Excavators.

10. The Operators obtained permission from a land owner to place the Excavators on his lands (the “**Private Lands**”) and fly flags from the Excavators’ arms.
11. The Private Lands are situated approximately five kilometres north of Coutts, Alberta, between the Highway to the west, Range Road 153 to the east, highway 500 to the south, and Township Road 14 to the north.
12. During the evening of February 11, 2022, one of the Excavators was delivered onto the Private Land by truck and trailer (the “**Delivery Truck**”).
13. During the morning or early afternoon on February 12, 2022, the other two Excavators were delivered onto the Private Lands by the Delivery Truck.
14. On February 12, 2022, at approximately noon to mid afternoon, two of the excavators were driven down the hill towards the Highway and positioned approximately 150 to 200 feet from the Highway — still on the Private Lands.
15. While the third Excavator was being driven down, two of the Operators were in the process of zip-tying Canada flags to the first two Excavators’ arms/buckets.
16. In the midst of hanging the Canada flags and the third Excavator being moved into position, the RCMP, including the RCMP Emergency Response Team (the “**ERT**”), attended with approximately 40 units, in 15 to 20 vehicles, onto the Private Lands where the Excavators were positioned.
17. The RCMP demanded that the excavators be moved from the “area”, as they were considered a “threat”, or they would be “permanently disabled”. The RCMP stated they were concerned that the Highway would be dug up.
18. The Operators explained to the RCMP that the intention was only to fly Canadian flags off the

arms/buckets of the Excavators, and reassured that there was no intention to dig up the Highway or any roads.

19. The RCMP provided the Operators with five minutes to haul the Excavators “out of the area” or they would move on their threat to permanently disable the Excavators.
20. The Operators informed the RCMP that the Delivery Truck operator was not in the area and that he was out of time to drive his rig.
21. The Operators offered to move the Excavators out of sight and across the hill. The RCMP accepted this compromise and no other threats were made.
22. The Excavators were moved east beyond a hill to what was deemed out of the “area” and were left there parked.
23. At all material times, the Excavators were on private property with express permission and consent from the land owner of the Private Lands.
24. In fact, the Land Owner was asked by the RCMP if he provided permission, to which he positively confirmed with a “thumbs up” gesture.
25. The Plaintiffs state, and the fact is, at no point whatsoever did the Excavators pose an immediate threat — or a threat of any kind — to the RCMP, the public, or any infrastructure.
26. The intention to position the Excavators by the Highway was purely to hang Canada flags as a sign of support for the Coutts Protest. At no point was there an intention to destroy infrastructure, dig up the Highway or other roads, hurt anyone, or commit any other nefarious activity.
27. The RCMP were informed that there was no ulterior, illegal, unlawful, or nefarious intention with the Excavators.
28. The Excavators could not be transported outside the jurisdiction as the truck operator was out of hours. This was expressly communicated to the RCMP.
29. During the morning of Sunday, February 13, 2022, some or all of the Operators returned to

the Excavators and found that they had been vandalized in a violent, reckless, and unnecessarily destructive manner (the “**Vandalism**”).

30. During text messages exchanged with the RCMP regarding the Vandalism, an RCMP officer confirmed that the Excavators were “disabled” and stated that it was not the RCMP’s call, but the decision to “disable” the Excavators was made at a much higher level.

31. The RCMP:

- (a) Erred in their threat assessment;
- (b) Acted upon on inaccurate, wrong, or misleading information;
- (c) Acted negligently, recklessly, unlawfully, maliciously, and destructively;
- (d) Intentionally destroyed private property without lawful authority;
- (e) Infringed the *Charter* rights of the Plaintiffs (as is herein elsewhere described); and
- (f) Engaged in further and other unlawful acts and omissions which are known to the parties and shall be proved at the trial of this action.

32. The Excavators posed no immediate threat to life or property. In fact, the Excavators posed no threat at all to anyone or any property or infrastructure.

33. The Plaintiffs state that the decision to disable the Excavators was politically motivated.

34. The Plaintiffs state that the damage sustained to the Excavators was beyond what was necessary to disable them, and represents wanton, malicious vandalism and destruction of private property meant to punish the Plaintiffs and other third-party demonstrators.

35. The RCMP trespassed onto the Private Lands to destroy private property.

36. The RCMP required a warrant to enter the Private Lands and to date, the Plaintiffs are not aware of the RCMP having ever obtained a warrant.

37. The Plaintiffs state that the unmanned Excavators did not pose an immediate threat to anyone or anything. As such, the RCMP possessed the time to obtain a lawful warrant or an order of

the Court.

38. The Plaintiffs state that Defendant acted beyond the lawful powers as stipulated for in the Act.

Charter Infringement

39. The Plaintiffs intended to express their support for the Coutts Protest by hanging Canadian flags from the Excavators' arms (the “**Peaceful Support**”). The Peaceful Support was an expression fundamentally protected by section 2(b) of the *Canadian Charter of Rights and Freedoms, The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c 11 (the “**Charter**”).

40. The meaning of “expression” within section 2(b) has been read broadly as including any activity that conveys, or attempts to convey, meaning.

41. The Plaintiffs state that the Peaceful Support was an activity to convey or attempt to convey meaning, constituted expressive content, and therefore afforded s. 2(b) protection.

42. The Plaintiffs state that neither the method nor the location of the expression removed the protection.

43. The Vandalism prevented the Plaintiffs or their agents, from conducting the Peaceful Support.

Damages suffered by the Plaintiffs

44. As a result of the unlawful acts and omissions of the RCMP, the Plaintiffs suffered damages.

45. Particulars of the Vandalism to the Excavators includes, but is not limited to:

- (a) Severed and removed electrical wiring;
- (b) Severed wiring in control units;
- (c) Severed and removed fuel lines;
- (d) Removed fuel filters;
- (e) Spray foam dispersed into fuel lines, filter housing and other parts or

equipment; and

(f) Such other and further particulars as shall be proven at the trial of this action.

46. Durango was unable to use Excavator A for approximately two weeks, which resulted in damages, as work fell behind on cleaning out various corrals.

47. Vandernberg required the use of Excavator B during its downtime, as such, the Plaintiff sustained damages beyond the mere cost of repairs.

48. All of the Plaintiffs suffered a loss of opportunity during the times when their Excavators were offline due to Vandalism by the RCMP.

49. As a result of the RCMP's unlawful acts and omissions, the Plaintiffs suffered damages, including but not limited to:

(a) Costs to repair Excavator A in the approximate amount of \$2,400.00;

(b) Costs to repair Excavator B in the approximate amount of \$12,771.00;

(c) Costs to repair Excavator C in the approximate amount of \$2,000.00;

(d) Loss of revenue for Excavator A of at least \$10,000.00;

(e) Loss of revenue for Excavator B of at least \$5,000.00;

(f) Loss of opportunity and other additional lost earnings the particulars of which shall be proved at the trial of this action; and

(g) Such other and further damages as shall be proven at the trial of this Action.

50. The Plaintiffs state that the Defendant's breaches as aforementioned, and elsewhere described herein, constitute malicious, wanton, reckless, reprehensible, and high-handed conduct and are deserving of punitive sanction, aggravated, and/or exemplary damages.

51. The Plaintiffs propose that the trial of this action take place at the Calgary Court Centre.

52. The Plaintiffs state that the trial will take no longer than 25 days.

Remedy sought:

53. The Plaintiffs seek the following remedies against the Defendant in this Action:
- (a) Durango seeks:
 - (i) Judgment and/or damages in the amount of \$12,400.00; and
 - (ii) Such further and other damages that will be proved at trial of this action.
 - (b) Vandenberg seeks:
 - (i) Judgment and/or damages in the amount of \$17,771.00; and
 - (ii) Such further and other damages that will be proved at trial of this action.
 - (c) 628016 seeks:
 - (i) Judgment and/or damages in the amount of \$2,000.00; and
 - (ii) Such further and other damages that will be proved at trial of this action.
 - (d) A Declaration pursuant to section 24(1) of the *Charter* that the Plaintiffs' s. 2(b) *Charter* rights were infringed and the infringements are not saved by s. 1 of the *Charter*;
 - (e) Punitive, aggravated, or exemplary damages in the amount of \$100,000.00;
 - (f) Judgment or damages, or both, for such other amounts as will be individually and/or collectively proved at the trial of this action;
 - (g) Interest on the above amounts pursuant to the *Judgment Interest Act*, RSA 2000, Ch. J-1, as amended;
 - (h) Costs of this action on a solicitor-client full indemnity basis; and
 - (i) Such further and other relief as this Honourable Court may deem meet and just having regard to all the circumstances.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at 601 - 5 Street SW, Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.