

Action No. 0803 B051

THE COURT OF QUEEN'S BENCH  
OF ALBERTA  
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

**MARTY LUCIEN LACERTE AND CYNTHIA LACERTE**

Plaintiffs

- and -

**MICHAEL J. BOYD, CHIEF OF THE EDMONTON POLICE  
SERVICE, CST. WADDEN REG. #2218, CST. DAVE CHOW REG.  
# 1904, CST. GREG SCOTT REG. #2109, CST. BUERGER REG  
#2055, CST. D.W. KIGHTLEY REG. #217, CST. RICHARDSON  
REG #2446 AND CST. KRUSE REG. #2467**

Defendants

**STATEMENT OF CLAIM**

1. The Plaintiffs Marty Lucien Lacerte ("Marty") and Cynthia Lacerte ("Cynthia") are individuals who, at all material times, resided in the City of Edmonton, in the Province of Alberta.
2. At all material times, Cst. Wadden, Cst. Dave Chow, Cst. Greg Scott, Cst. Buerger, Cst. D.W. Kightley, Cst. Richardson, and Cst. Kruse (the "EPS Members") were members of the Edmonton Police Service (the "EPS") and acting under the direction and control of Michael J. Boyd (the "Chief") and in the purported performance of the duties of the Chief.
3. On or about October 27, 2006, the EPS Members or any one or more of them unlawfully and forcefully entered the Plaintiffs' residence, without a warrant or the consent of the occupants, and caused damage to the door in the process of doing so. The EPS Members or any one or more of them then began to interrogate both of the Plaintiffs without first informing them of their *Charter* rights. Marty Lacerte inquired as to whether the EPS Members had a warrant, to which the EPS Members falsely responded that they didn't need one. One of the EPS Members then threw Marty Lacerte onto the ground and stood on his head, while approximately three of the EPS Members kicked Marty Lacerte's head, chest, arms and legs, and tasered him twice. The EPS Members then unlawfully detained him, mistreating him throughout the detention.
5. One or more of the EPS Members then maliciously initiated criminal charges against Marty Lacerte (the "Charges") despite the lack of any reasonable and probable grounds to believe that he had committed an offence.
6. The Charges were subsequently terminated in Marty Lacerte's favour.
7. As a result of the actions of the Defendants or any one or more of them, Marty Lacerte suffered painful personal injuries requiring medical attention, and both of the Plaintiffs suffered mental anguish, humiliation and injury to their dignity, all of which were foreseeable consequences of the Defendants' actions.
8. Marty Lacerte incurred fees and expenses in defending the Charges.

9. The conduct described above constitute breaches of the Plaintiffs' rights at common law and pursuant to s. 7, 8, 10, 11 and 12 of the *Charter*, and entitles the Plaintiffs to a remedy pursuant to s. 24 of the *Charter* and damages.

10. Further, the conduct of the EPS Members' or any one or more of them constituted flagrant abuses of their authority, was high-handed and malicious, and warrants an award of aggravated and punitive damages.

11. The Chief is liable for the actions of the EPS members pursuant to s. 39 of the *Police Act*, R.S.A. 2000, c. P-17.

12. Further, the Chief knew or ought to have known of the propensity of some or all of the EPS Members to use excessive and unreasonable force, yet failed to take any or adequate measures to protect members of the public, including the Plaintiff.

13. The Plaintiffs propose that the trial of this action be held in Edmonton, in the Province of Alberta.

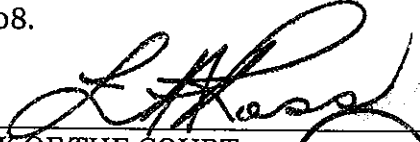
14. The Plaintiffs anticipate that the trial of this matter will not require more than 25 days.

WHEREFORE THE PLAINTIFFS CLAIM:

- (a) Damages against the Defendants, including aggravated and punitive damages, in the amount of \$450,000.00;
- (b) Such further or other relief as this Honourable Court considers appropriate and just to provide a meaningful remedy to the Plaintiff pursuant to s. 24(1) of the *Charter*;
- (c) Costs of this action on a solicitor and their own client basis;
- (d) Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. J-1; and
- (e) Such further or other relief as this Honourable Court deems just.

DATED at the City of Edmonton, in the Province of Alberta, this 23<sup>rd</sup> day of October, 2008, AND DELIVERED BY ENGEL BRUBAKER, solicitors for the Plaintiffs, whose address for service is in care of his said solicitors at 1780, 10123 - 99<sup>th</sup> Street, Edmonton, Alberta T5J 3H1.

ISSUED out of the Office of the Clerk of the Court of Queen's Bench of Alberta, Judicial District of Edmonton, this 27 day of October, 2008.

  
CLERK OF THE COURT



0803 15051

Action No.

TO: The Defendants

You have been sued. You are a Defendant. You have only 15 days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of the Queen's Bench in Edmonton, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

IN THE COURT OF QUEEN'S BENCH  
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Plaintiffs

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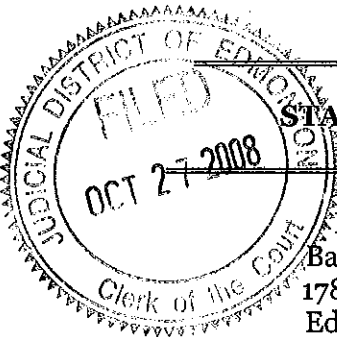
**WARNING:** If you do not do both things within 15 days, you may automatically lose the law suit. The Plaintiffs may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiffs, or do either thing late.

MICHAEL J. BOYD, CHIEF OF  
THE EDMONTON POLICE  
SERVICE, CST. WADDEN REG.  
#2218, CST. DAVE CHOW REG.  
# 1904, CST. GREG SCOTT  
REG. #2109, CST. BUERGER  
REG #2055, CST. D.W.  
KIGHTLEY REG. #217, CST.  
RICHARDSON REG. #2446 AND  
CST. KRUSE REG. #2467

Defendants

This Statement of Claim is issued by the Solicitors for the Plaintiff, whose name and address for service is:

ENGEL BRUBAKER  
Barristers and Solicitors  
1780, 10123 - 99<sup>th</sup> Street  
Edmonton, AB T5J 3H1  
Phone (780) 448-3639  
Fax: (780) 448-4924  
Attention: Erika Norheim  
File No: 3392 EDN



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The residence of the Defendants, so far as is known to the Plaintiff, is Edmonton, Alberta.

**CIVIL MEDIATION PROGRAM**  
Court of Queen's Bench of Alberta  
This civil, non-family action is eligible to proceed to mediation through the Civil Mediation Program. If all parties agree to mediate, they may choose a Roster Mediator and schedule mediation. Alternatively, any party may file and serve a Request to Mediate if the requirements in Civil Practice Note No. 11 are met.  
**FOR MORE INFO, CONTACT:**  
Phone: (780) 427-2721 Fax: (780) 644-7838  
[www.albertacourts.ab.ca/qb/civilmediation](http://www.albertacourts.ab.ca/qb/civilmediation)