

(Court File No.) T-1835-17

FEDERAL COURT

BETWEEN:

CHRYSTA RAMOUTAR

PLAINTIFF

AND

CANADA BORDER SERVICE AGENCY, JANE DOE 1, JANE DOE 2, JOHN
DOE 1, NINA PATEL, JANE/JOHN DOE A, JANE/JOHN DOE B and HER
MAJESTY THE QUEEN

DEFENDANT

NOV 30 2017

STATEMENT OF CLAIM TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by
the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting
for you are required to prepare a statement of defence in Form 171B prescribed
by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the
plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of
service, at a local office of this Court, WITHIN 30 DAYS after this statement of
claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving
and filing your statement of defence is forty days. If you are served outside
Canada and the United States of America, the period for serving and filing your
statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices
of the Court and other necessary information may be obtained on request to the
Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local
office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given
against you in your absence and without further notice to you.

DATE: November 30, 2017

JENA RUSSELL
REGISTRY OFFICER
AGENT DU GREFFIER

Issued by: _____
(Registry Officer)

Address of local office: **80 Queen Street West** **180, rue Queen Ouest**
Suite 200 **bureau 200**
Toronto, Ontario **Toronto, Ontario**
M5V 3L6 **M5V 3L6**

TO: Canadian Border Service Agency
District Office
P.O. Box 40
Toronto AMF, Ontario
L5P 1A2

AND TO: Officer Ware (Jane Doe 1)
Border Agent
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

AND TO: Assisting Officer (Jane Doe 2)
Border Agent
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

AND TO: Supervisor (John Doe 1)
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

AND TO: Nina Patel
A/District Director
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

AND TO: Jane/John Doe A
A/District Director Signing Authority 1
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

AND TO: Jane/John Doe B
A/District Director Signing Authority 2
Passenger Operations District
Toronto Pearson International Airport
Greater Toronto Area region

CLAIM

The Parties

1. The plaintiff is Chrysta Ramoutar, a Canadian Citizen that resides in Toronto.
2. The Defendant CANADA BORDER SERVICES AGENCY (CBSA), is the federal agency that is responsible for border enforcement, immigration enforcement and customs services.
3. The Defendant Officer Ware (Jane Doe 1) is a Border Agent that was working at the Toronto Pearson International Airport on September 1, 2017 who detained and investigated Ms. Ramoutar.
4. The Defendant Jane Doe 2 is a Border Agent that was working at the Toronto Pearson International Airport on September 1, 2017 who assisted Jane Doe 1 and detained and investigated Ms. Ramoutar.
5. The Defendant Supervisor (John Doe) is a Supervisor that was working at the Toronto Pearson International Airport on September 1, 2017 and authorized the continued investigation of Ms. Ramoutar.
6. The Defendant Nina Patel is the A/District Manager that is named in the response to Ms. Ramoutar's complaint.
7. The Defendant Jane/John Doe A signed the A/District Manager's response dated September 20, 2017.
8. The Defendant Jane/John Doe B signed the A/District Manager's response dated October 31, 2017.

Overview of the claim

9. On September 1, 2017 Ms. Chrysta Ramoutar arrived home from a trip to Jamaica.
10. While entering Canada Ms. Ramoutar was subject to a primary and secondary examination by CBSA officers.
11. The secondary examination resulted in a detention, strip search and request for three stool samples without reasonable grounds.
12. Ms. Ramoutar was subject to a 12-hour detention.

13. Ms. Ramoutaur was subjected to abusive verbal attacks and humiliating treatment by the CBSA officers.
14. Ms. Ramoutar experienced severe anxiety and PTSD as a result of the abuse she received from the CBSA officers.
15. Ms. Ramoutar launched a complaint and the response did not address the concerns Ms. Ramoutar raised.
16. Ms. Ramoutar suffers from the humiliation and treatment she received as a Canadian citizen and now has anxiety to travel in or out of the country.

CBSA Investigation

17. The CBSA began their investigation of Ms. Ramoutar on September 1st, 2017 at Toronto Pearson International Airport.
18. Ms. Ramoutar was returning to Toronto from Jamaica at approximately 6:30pm and declared on her customs form that she was not bringing any contraband goods into Canada.
19. The CBSA agent Officer Jane Doe 1, asked Ms. Ramoutar what was the purpose of her trip to Jamaica when she arrived at the port of entry (POE).
20. Ms. Ramoutar was allowed to proceed to pick up her luggage, and was then ordered to attend the secondary screening area by Officer Jane Doe 1 prior to exiting the airport baggage collection area (breach of s. 10 Rights to Counsel).
21. Ms. Ramoutar was asked a series of personal questions unrelated to whether she had any contraband that she was bringing into Canada such as, "who did you stay with? And how were you able to afford it?"
22. Officer Jane Doe 1 said she had concerns as to how many times Ms. Ramoutar had travelled to Jamaica and how she was able to afford it (breach of s. 6 Mobility Rights). Then proceeded to ask the same question numerous times, "what was the purpose of your trip to Jamaica". Ms. Ramoutar asked Officer Jane Doe 1 if she was purposely trying to be difficult with her because she kept repeating the same questions.
23. Officer Jane Doe 2 then interjected and asked, "who are you speaking to?" and stated she did not like the way Ms. Ramoutar was speaking to

her colleague (breach of s. 2(b) Freedom of Expression).

24. Ms. Ramoutar replied to Officer Jane Doe 2 that she was speaking to Officer Jane Doe 2, and that she had no reason to be speaking to her. At that point Officer Jane Doe 2 took a primary role in the investigation of Ms. Ramoutar and made it a personal vendetta against Ms. Ramoutar rather than a legal CBSA investigation (misfeasance of public office).
25. Ms. Ramoutar then had all of her bags searched, x-rayed, and swabs taken of her watch, bracelet and earrings. There were no drugs or contraband items found.
26. After the search of Ms. Ramoutar came up clean, Officers Jane Doe 1 and 2 said that they believe Ms. Ramoutar had drugs on her person and that she was being detained and would have to be strip searched and provide 3 stool samples (breach of s. 12 Cruel and Unusual Punishment).
27. Ms. Ramoutar was given her rights to counsel then spoke to duty counsel who informed her that she was being detained under the suspicion of ingesting drugs (breach of s. 9, Arbitrary Detention).
28. Ms. Ramoutar requested to speak to the supervisor as per CBSA regulations and explained that she was menstruating and suffers from Post Traumatic Stress Disorder (PTSD) and that this situation was making it worse and that she had no prior drug related offences.
29. The Supervisor John Doe 1 replied that he believed his officer, and failed to use his discretion to evaluate whether there were reasonable grounds to conduct an intrusive strip search and stool sample under these conditions (breach of s. 12 Cruel and Unusual Punishment).
30. Ms. Ramoutar was in severe distress when she had to remove her underwear and place it in an evidence bag while menstruating and being humiliated while trying to provide three stool samples (breach of s. 8, Unreasonable Search and Seizure).
31. Ms. Ramoutar then requested to call her Mother and her friend that was picking her up to let them know she was ok. Ms. Ramoutar was denied that opportunity (breach of s. 12 Cruel and Unusual Punishment) and her Mother, Son and friend were extremely worried, as they did not know Ms. Ramoutar's whereabouts or if she was safe.
32. During the detention Officer Jane Doe 2 verbally attacked and provoked Ms. Ramoutar as described in paragraph 16.

33. While Ms. Ramoutar was attempting to provide stool samples, Officer Jane Doe 2 taunted Ms. Ramoutar by suggesting she should apply to the CBSA since they needed more female officers and she had a diploma in addictions.
34. After requiring relief from the verbal attacks by Officer Jane Doe 2, Ms. Ramoutar requested to speak to Supervisor John Doe 1 and explained that she was being unnecessarily disrespected by Officer Jane Doe 2 as she was innocent and the treatment was heightening her anxiety.
35. Supervisor John Doe 1 listened to Ms. Ramoutar and suggested she file a complaint online.
36. Ms. Ramoutar does not eat meat and was forced to eat Wendy's chili and a Tim Horton's sausage and egg muffin in order to provide three stool samples, as she would not be able to leave until she provided them.
37. After providing the three stool samples Ms. Ramoutar was released at 7:20am on September 2, 2017 making it over 12 hours in detention being subject to abusive behaviour by Officers Jane Doe 1 and 2.
38. Even though Ms. Ramoutar was suspected of ingesting contraband, no medical examiner was requested to monitor Ms. Ramoutar's health.
39. Officer Jane Doe 2 remained past her shift and did overtime to ensure that Ms. Ramoutar received harsh treatment as she was determined to make it difficult for her every step of the way until the end of the investigation. Officer Jane Doe 1 was the initial investigator while Officer Jane Doe 2 was not initially involved until the interaction mentioned in paragraph 25.

Post Complaint Conduct of CBSA

40. Ms. Ramoutar was so negatively affected by her treatment as a Canadian Citizen on her re-entry home, she decided to follow Supervisor John Doe's suggestion of making an online complaint in the hopes the Officer's responsible for treating her in a dehumanizing way would be addressed.
41. Ms. Ramoutar filed a complaint on September 5, 2017 through the online process that the CBSA provides.
42. On September 20, 2017 Ms. Ramoutar received a response that was

generic and did not address any of the concerns that Ms. Ramoutar raised.

43. In an effort to ensure other Canadians do not experience what she went through Ms. Ramoutar requested her lawyer George (Knia) Singh J.D. reply to the CBSA response.
44. On October 17, 2017 Mr. Singh replied to the CBSA response dated September 20th and clearly outlined the injustice and *Charter* violations that occurred on September 1st and 2nd, and requested a detailed response.
45. On October 31, 2017 the CBSA provided another generic response that did not address the issues raised in Ms. Ramoutar's initial complaint, or Mr. Singh's follow up complaint.
46. The CBSA failed to adhere to their own Charter of Commitment to Service Excellence located on their website by failing to act with:
 - a) Respect and Courtesy
 - b) Fair application of the law
 - c) Review of their actions and decisions

Liability of CBSA Officers and Administration

Negligence

47. The defendant CBSA officers owe a duty care to individuals they engage, detain, arrest and/or imprison.
48. The CBSA officers breached the duty of care they owed to the plaintiff and, accordingly, are liable in negligence to the plaintiff. The injuries and suffering of the plaintiff arose as a direct result of the negligence of these defendants. The negligent actions and/or inactions of the officers as plead herein each and/or collectively caused Ms. Ramoutar's injuries, a consequence the officers knew or ought to have known would occur as a result of their negligence.
49. The conduct of the CBSA officers constitutes negligence.

False arrest

50. The defendant CBSA officers intentionally and/or recklessly arrested Ms. Ramoutar without ascertaining reasonable grounds and arrested and detained out of malice.

51. The conduct of the CBSA officers constitutes a false arrest.

Misfeasance in Public Office

52. The plaintiff relies on the facts as set out above and state the CBSA officers deliberately violated the law by detaining Ms. Ramoutar and demanding three stool samples and a strip search when there were no reasonable grounds to believe any contraband was in her possession.

53. The conduct of the CBSA officers constitutes Misfeasance in public office.

Claim for damages

54. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 2(b) Freedom of Expression.

55. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 6 Mobility.

56. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 7 Liberty.

57. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 8 Unreasonable Search and Seizure.

58. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 9 Arbitrary Detention.

59. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 10 Notice to Counsel and Right to be informed.

60. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s. 12 Cruel and Unusual Punishment.

61. The plaintiff seeks constitutional damages under s. 24 of the *Charter* for a breach of her *Canadian Charter of Rights and Freedoms* on September 1st and 2nd, 2017, under s.15 Equal Treatment Under the Law.
62. The plaintiff seeks damages for the tort of misfeasance in public office and intentional infliction of mental distress since the defendants acted in bad faith during the course of the investigation of Ms. Ramoutar by committing the following acts:
- a) Jane Doe 1 and Jane Doe 2 did not execute all possible searches prior to ordering a strip search. Ms. Ramoutar's phone was searched after the strip search.
 - b) After Ms. Ramoutar disclosed that she was diagnosed with PTSD, she asked Jane Doe 1 and Jane Doe 2 if they could keep the cell door open due to her high anxiety level and not feeling comfortable in confined spaces. They indicated to her as long as there were two of them present that would be fine. After being verbally abused by Jane Doe 2, I asked how old she was because she was acting very immature and unnecessarily disrespectful. She then told Jane Doe 1 to close the door on me, which she did. This heightened Ms. Ramoutar's anxiety and she requested to speak with the supervisor. Ms. Ramoutar explained that the officer was being verbally abusive toward her, he told her to report it online.
 - c) Jane Doe 2 told Ms. Ramoutar that she left her son to go "fuck a man in Jamaica" and that she would never leave her children.
 - d) Jane Doe 2 tried to intimidate Ms. Ramoutar by sitting with her legs wide open and staring right at her while Ms. Ramoutar looked away.
 - e) Jane Doe 2 insinuated that Ms. Ramoutar might be in the line of prostitution work or a stripper.
 - f) Jane Doe 2 told Ms. Ramoutar no one was looking for her, but if Jane Doe 2 were in Ms. Ramoutar's position, Jane Doe 2's friends would be looking for her.
 - g) Jane Doe 2 said that she was tough compared to her colleague Jane Doe 1.
 - h) Jane Doe 2 asked Ms. Ramoutar why she did not complete her

social work diploma and that she was lazy and had no excuses.
i) Jane Doe 2 asked if Ms. Ramoutar had ever been on assistance.
Ms. Ramoutar replied yes and it was due to her difficult past.
Jane Doe 2 went on to say that she works her ass off and does not depend on the government.

j) Ms. Ramoutar informed Jane Doe 2 that she spoke to duty counsel and was informed that any disclosure of information had to be voluntary. Jane Doe 2 said she would "continue to annoy her with questions".

63. The Plaintiff seeks damages for false arrest and false imprisonment since there were no reasonable grounds to suspect Ms. Ramoutar had ingested drugs after completing the search of luggage, person and phone.

64. The Plaintiff seeks damages for negligence and duty of care since the negative effects Ms. Ramoutar experienced were foreseeable. The effects were:

- a) Severe mental distress
- b) Anxiety
- c) Fear of travelling
- d) Not being able to sleep
- e) Remaining confined to her home

Claims for relief

65. The Plaintiff claims the following relief:

- a) General Damages in the amount of \$3,000,000;
- b) Constitutional Damages in the amount of \$7,000,000;
- c) Special Damages to be determined;
- d) Punitive Damages in the amount of \$5,000,000;
- e) Costs;
- f) Interest;
- g) Such further and other relief as this Honourable Court deems just

November 30, 2017


(Signature of solicitor or plaintiff),
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