

Form 4.02A

2020

Tru No.

498054

Supreme Court of Nova Scotia

Between:

Nicholas Conrad Beaton

Representative Plaintiff

and

Pat Doe, in their capacity as Representative of The Estate of Gabriel Wortman

Proceeding pursuant to the *Class Proceeding Act*, SNS 2007, c 28



To: Pat Doe, in their capacity as the Representative of The Estate of Gabriel Wortman

**Action has been started against you**

The Representative Plaintiff takes action against you.

The Representative Plaintiff started the Action by filing this Notice with the Court on the date certified by the Prothonotary.

The Representative Plaintiff claims the relief described in the attached Statement of Claim. The claim is based on the grounds stated in the Statement of Claim.

**Deadline for defending the action**

Pursuant to subsection 4(6) of the *Class Proceedings Act*, a defence is not due until forty-five (45) days after a Certification Order is issued in respect of the proceeding.

**Judgment against you if you do not defend**

The Court may grant an order for the relief claimed without further notice, unless you file the Notice of Defence before the deadline.

**You may demand notice of steps in the action**

If you do not have a defence to the claim or you do not choose to defend it you may, if you wish to have further notice, file a Demand for Notice.

If you file a Demand for Notice, the Plaintiff must notify you before obtaining an order for the relief claimed and, unless the Court orders otherwise, you will be entitled to notice of each other step in the Action.

**Rule 57 - Action for Damages under \$100,000**

Civil Procedure Rule 57 limits pretrial and trial procedures in a defended Action so it will be more economical. The Rule applies if the Representative Plaintiff states the Action is within the Rule. Otherwise, the Rule does not apply, except as a possible basis for costs against the Representative Plaintiff.

This Action is not within Rule 57.

**Filing and delivering documents**

Any documents you file with the Court must be filed at the office of the Prothonotary:

1 Church Street, Truro, Nova Scotia B2N 3Z5 (Tel: 902.893.3953)

When you file a document you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a Judge orders it is not required.

**Contact information**

The Representative Plaintiff designates the following address:

Robert H. Pineo  
PATTERSON LAW  
1801 Hollis Street, Suite 2100  
Halifax, NS B3J 3N4

Documents delivered to this address are considered received by the Representative Plaintiff on delivery. Further contact information is available from the Prothonotary.

**Proposed place of trial**

The Representative Plaintiff proposes that, if you defend this Action, the trial will be held in Truro, Nova Scotia.

**Signature**

Signed May 5, 2020.



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**Robert H. Pineo**  
**PATTERSON LAW**  
1801 Hollis Street, Suite 2100  
Halifax, NS B3J 3N4  
Tel: 902.405.8000  
Fax: 902.405.8001  
**Counsel for the Representative Plaintiff,**  
**Nicholas Conrad Beaton**

**Prothonotary's certificate**

I certify that this Notice of Action, including the attached Statement of Claim, was filed with the Court on May 5, 2020.



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**Prothonotary**  
KIM MYATT  
PROTHONOTARY

**Statement of Claim**

**The Parties**

1. The Representative Plaintiff for the proposed Class Proceeding is Nicholas Conrad Beaton of Onslow Mountain, Colchester County, Nova Scotia (hereinafter "the Plaintiff").
2. The Defendant, the Representative of The Estate of Gabriel Wortman (hereinafter "the Estate"), is the Estate of Gabriel Wortman, formerly of Dartmouth, Halifax Regional Municipality, Nova Scotia, who died on April 19, 2020 (hereinafter "Wortman").

**The Class Action**

3. The Representative Plaintiff brings the present Action on his own behalf and on behalf of the members of the three subclasses as a Class Proceeding pursuant to the *Class Proceedings Act*, SNS 2007, c 28.
4. The Representative Plaintiff pleads that the Class Proceeding is comprised of three subclasses, defined as follows:
  - a. Subclass A: All of those persons who are entitled to advance claims pursuant to the Fatal Injuries Act, RSNS 1989, c 163, namely the spouses, children and/or parents, as defined by said Act, of those persons killed by Wortman.
  - b. Subclass B: All of those persons, excluding Lisa Banfield, who suffered personal injuries by the actions of Wortman; and,
  - c. Subclass C: All of those persons, including the Estates of those killed by Wortman, excluding Lisa Banfield, who suffered damage to property by the actions of Wortman.
5. Collectively, the members of all of the three subclasses are referred to as "the Class Members".
6. The Representative Plaintiff pleads that the issues common to all of the Class Members are:
  - a. the facts underlying the liability of the Estate for the losses and damages suffered; and,

- b. the equitable division of the Estate's assets on a *pro rata* basis in favour of each class member of the damage awards.

### **The Individual Claims**

- 7. The Representative Plaintiff pleads that the individual Class Members will be required to present their own individual actions after the common issue of facts underlying the Estate's liability are determined by this Honourable Court. It will be presented to the Court that the trial of the individual issues within the case management context of this Class Proceeding.
- 8. The Representative Plaintiff further pleads that after the individual issues are determined, the second common issue, the division of the Estate's assets amongst the Class Members, will be determined.
- 9. The Representative Plaintiff pleads that the following issues are issues individual to the Class Members and are to be determined on an individual basis by this Honourable Court:
  - a. Liability of the Estate to the individual Class Members;
  - b. The entitlement of damages of the individual Class Members; and,
  - c. The quantification of damages of the individual Class Members;

### **Background**

- 10. The Representative Plaintiff pleads that during the evening hours of Saturday, April 18, 2020, Wortman began a spree of committing crimes that included shooting people and pets with various firearms and burning property including cars and residential structures.
- 11. The Representative Plaintiff pleads that the crime spree continued until approximately 11:26 a.m. on April 19, 2020.
- 12. The Representative Plaintiff pleads that during the crime spree, Wortman killed 22 people; caused personal injuries to at least six people; burned at least four residential structures; burned or damaged at least three motor vehicles; and, killed or injured at least five pets.
- 13. The Plaintiff pleads that crime spree began in Portapique, Colchester County, Nova Scotia.
- 14. Wortman's first victim was Lisa Banfield, a woman with whom he then or formerly had an intimate relationship. It is alleged by Banfield that at approximately

10:00 p.m. on April 18, 2020, Wortman assaulted her and she escaped into the forest and hid there until approximately 6:30 a.m. on April 19, 2020.

15. The Representative Plaintiff pleads that at approximately 10:00 p.m. on April 18, 2020, the RCMP received messages from 911 advising of shootings in the Portapique area. The RCMP arrived in Portapique at approximately 10:20 p.m. to find buildings burning.
16. The Representative Plaintiff pleads that at approximately 11:32 p.m. on April 18, 2020, the RCMP issued a notice via social medial platform Twitter, advising Portapique residents to "stay inside their homes with doors locked at this time".
17. The Representative Plaintiff pleads that at approximately 6:30 a.m. on April 19, 2020, Lisa Banfield called 911 and reported to the RCMP that Wortman had an authentic RCMP uniform and a replica RCMP police cruiser and multiple firearms.
18. The Representative Plaintiff pleads that the RCMP issued a "Be On the Look Out" alert for Wortman to other RCMP members shortly after 6:30 a.m. on April 19.
19. The Representative Plaintiff pleads that prior to Lisa Banfield informing the RCMP that Wortman was impersonating an RCMP officer (at approximately 6:30 a.m. on April 19, 2020), Wortman killed 13 victims; physically and/or psychologically injured at least five more; burned at least three residential buildings and damaged at least three motor vehicles.
20. The Representative Plaintiff pleads that at approximately 8:02 a.m. on April 19, 2020, the RCMP issued a further notice on Twitter stating that there is an "active shooter" in Portapique and asked residents to "stay inside".
21. The Representative Plaintiff pleads that Wortman left the Portapique area at some point during the overnight of April 18-19, 2020.
22. The Representative Plaintiff pleads that Wortman next traveled to Wentworth, Colchester County, Nova Scotia and killed three people and burned at least one residential building containing two dogs.
23. The Representative Plaintiff pleads that Wortman next traveled from Wentworth Station in the direction of Debert, Colchester County, Nova Scotia and killed three more people while on the road.
24. The Representative Plaintiff pleads that Wortman next traveled to Shubenacadie, Hants County, Nova Scotia and killed three more people, including Constable Heidi Stevenson, burned two motor vehicles, stole two motor vehicles and shot and injured a dog.

25. The Representative Plaintiff pleads that Wortman next traveled to Enfield, on the border of Hants County and Halifax County, Nova Scotia where Wortman was shot and killed by the RCMP.
26. The Representative Plaintiff pleads that at approximately 10:17 a.m. on April 19, 2020, the RCMP issued a further notice on Twitter stating that Wortman was impersonating an RCMP officer, was dressed in an RCMP uniform and driving a replica RCMP cruiser.
27. The Plaintiff pleads that at no time did the RCMP, or anybody else on its behalf or independently, issue an alert via Alert Ready, an emergency alert system available to Nova Scotia to distribute public safety messages province-wide.

### **The Representative Plaintiff**

28. The Representative Plaintiff is the widower of Kristen Nicole Beaton ("Kristen").
29. Wortman impersonated an RCMP officer to stop Kristen on the road as she traveled to work as a VON nurse. Wortman shot and killed Kristen. She was pregnant at the time of her death with her and the Representative Plaintiff's second child. Their other child is a son who was three years old at the time of Kristen's death.
30. The Representative Plaintiff will be seeking and presumes that he will be granted the status of Personal Representative of the Estate of Kristen Nicole Beaton.
31. The Representative Plaintiff is employed with the Town of Truro. He is willing to represent all of the Class Members should this action be certified, to provide instructions to legal counsel, to attend discovery examinations, attend and testify at motions and trial of the common issues.

### **Causes of Action and Legislation**

32. The Representative Plaintiff repeats the forgoing and pleads that the Estate is liable to all of the class members for the wrongful actions of Wortman and pleads and relies upon the torts of assault, battery, trespass and conversion of chattels.
33. The Representative Plaintiff pleads and relies upon the following statutes and the regulations made thereunder: the *Fatal injuries Act, supra*; the *Survival of Actions Act*, RSNS 1989, c 453; the *Estate Actions Act*, RSNS 1989, c 152; the *Tortfeasors Act*, RSNS 1989, c 471; and, the *Negligence Act*, RSNS 1989, c 95.


### **Relief Sought**

34. The Representative Plaintiff claims:

- (a) Interim and interlocutory relief to preserve the assets of the Estate until the issue of damages is resolved;
- (b) The certification of this proposed class proceeding for the common issues pursuant to the *Class Proceedings Act, supra.*;
- (c) An order for the equitable division of the Estate's assets on a *pro rata* basis amongst the class members once the individual issues are determined;
- (d) A process whereby the Case Management Judge determines the Special and General Damages of the individual plaintiffs pursuant to the *Fatal Injuries Act, supra*, for the for the statutory beneficiaries comprising subclass A;
- (e) A process whereby the Case Management Judge determines the Special and General Damages of the individual plaintiffs' Special and General Damages for the members of subclass B for the injuries and damages suffered personally by those subclass members and for injuries and damages to their property;
- (f) A process whereby the Case Management Judge determines the Special and General Damages of the individual plaintiffs' Special and General Damages for the members of subclass C for the injuries and damages suffered to their property;
- (g) Pre-judgment interest;
- (h) Costs; and,
- (i) Such further and other damages or awards as this Honourable Court sees fit to grant as against the Estate.

**Signature**

Signed May 5, 2020.

  
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