

**ONTARIO
SUPERIOR COURT OF
JUSTICE**

B E T W E E N:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
7983794 CANADA INC., (c.o.b. as UNION: LOCAL 613) and
GEOFFREY DEVANEY**

Plaintiffs/Responding Parties

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS, CHAD
EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN,
JASON LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODY CARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC, JACOB
WELLS, HAROLD JONKER, JONKER TRUCKING INC. and BRAD HOWLAND**

Defendants/Moving Parties

Proceeding under the *Class Proceedings Act, 1992*

MOTION RECORD

(Motion for Permanent Stay of Proceedings)

CHARTER ADVOCATES CANADA
c/o 1300-80 Richmond St. West
Toronto, Ontario, M5H 2A3

James Manson (LSO# 54963K)

[REDACTED]

Christopher Fleury (LSO# 76485L)

[REDACTED]

Lawyer for the Defendants Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior, Daniel Bulford, Ryan Mihilewicz, Dale Enns, Brad Howland, Harold Jonker,

TO: CHAMP & ASSOCIATES

[REDACTED]

Paul Champ (LSO# 45305K)

[REDACTED]

Lawyer for the Plaintiffs

AND TO: Dimitrios (Jim) Karahalios (LSO# 56101S)

Jim Karahalios Professional Corporation

[REDACTED]

Andrew Burgess (LSO# 670430)

Andrew Burgess Professional Corporation

[REDACTED]

Lawyers for the Defendants GiveSendGo LLC,
Jacob Wells, Chris Garrah, Nicholas St. Louis,
Benjamin Dichter, and Brigitte Belton.

AND TO: OVERWATER BAUER LAW

[REDACTED]

Shelley Overwater

[REDACTED]

Lawyer for the Defendants Patrick James
King and Joe Jacob Abram Janzen

AND TO: TAYLOR MERGUI LAW GROUP

[REDACTED]

Ryan O'Connor

[REDACTED]

Lawyer for the Defendant Chad Eros

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Court File No. CV-22-00088514-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

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FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC, JACOB
WELLS, HAROLD JONKER, JONKER TRUCKING INC. and BRAD HOWLAND**

Defendants/Moving PartiesProceeding under the *Class Proceedings Act, 1992*

NOTICE OF MOTION

(Motion for Permanent Stay of Proceedings)

The defendants, Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior, Daniel Bulford, Ryan Mihilewicz, Dale Enns, Brad Howland, Harold Jonker, Jonker Trucking Inc., and Freedom 2022 Human Rights and Freedoms (the “**Lich Defendants**”) will make a motion to a judge, on a date to be set by the Court.

PROPOSED METHOD OF HEARING: The motion is to be heard in person or, alternatively, by videoconference.

THE MOTION IS FOR:

1. an order for a permanent stay of this proceeding as against the Lich Defendants;
2. costs of this motion;
3. costs of this proceeding; and
4. such further and other relief as this Court considers appropriate.

THE GROUNDS FOR THE MOTION ARE:**Background**

1. This is a proposed class action, sounding in public and private nuisance, arising from the 2022 “Freedom Convoy” protest against COVID-19-related public health measures in Ottawa, Ontario (the “**Protest**”);
2. the plaintiffs allege that protestors caused an actionable nuisance (both public and private) in an area of Ottawa by “continuously idling and blocking the downtown streets of Ottawa while blasting earsplitting air and train horns” using semi-tractor-trailer trucks. They seek \$280 million in damages as well as additional amounts by way of disgorgement. The plaintiffs seek to certify plaintiff classes consisting of residents, workers, and businesses in a defined zone of downtown Ottawa;
3. the defendant, Chad Eros (“**Eros**”), is an individual whom the plaintiffs allege was involved with the Protest in an organizing or fundraising capacity;
4. the defendants, Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior, Daniel Bulford, Ryan Mihilewicz and Dale Enns are individuals who, like Eros, the plaintiffs allege were involved with the Protest in organizing or fundraising;

5. the plaintiffs also allege that the defendants, Eros, Tamara Lich, Chris Barber, and Sean Tiessen are named directors of the defendant Freedom 2022 Human Rights and Freedoms. Freedom 2022 Human Rights and Freedoms is a non-profit corporation established for the purpose of receiving and distributing money raised in support of the Protest;

6. the defendant, Brad Howland, is alleged to have donated to a fundraising campaign in support of the Protest, organized by his co-defendants. Brad Howland is a proposed representative defendant. The plaintiffs seek to force Mr. Howland to represent the thousands of Canadians who similarly donated money to support the Protest;

7. the defendants, Harold Jonker and Jonker Trucking Inc., are also proposed representative defendants. The plaintiffs seek to force Mr. Jonker to represent all drivers and owners of semi-tractor trucks parked at the Protest;

The Lich Defendants reasonably believed their interests were aligned with Eros

8. while there are a large number of defendants in this action, all of them (with the exception of Eros and those who have been noted in default), are divided into three defendant groups, each represented by counsel. The Lich Defendants comprise one group. The defendants, GiveSendGo LLC, Jacob Wells, Chris Garrah, Nicholas St. Louis, Benjamin Dichter, and Brigitte Belton (the “**GiveSendGo Defendants**”) comprise a second group. The defendants, Patrick King and Joe Janzen (the “**King Defendants**”) comprise the third group. Up until the case conference that took place in this matter on January 29, 2026, Eros has been self-represented in this action;

9. the Lich Defendants reasonably believed that their interests were aligned with those of Eros. Nothing in the plaintiffs’ Further Fresh as Amended Statement of Claim suggests that Eros might be on the side of the plaintiffs or might otherwise be adverse in interest to the Lich Defendants. The plaintiffs have alleged that Eros and the Lich defendants had a “common design”

and acted in concert with one another. Neither the Lich Defendants nor Eros have ever initiated or threatened crossclaims against one another;

The Cooperation Agreement

10. on April 3, 2024, the plaintiffs and Eros executed a secret cooperation agreement (the “**Cooperation Agreement**”), which imposed binding obligations on Eros to cooperate with the Plaintiffs *before* Court approval of the agreement;

11. the obligations in the Cooperation Agreement that preceded Court approval are as follows:

a) within 60 days of the Cooperation Agreement’s execution (i.e., by June 2, 2024), Eros was required to “provide to the Plaintiffs and Class counsel copies of all Documents in his possession, power or control” to be “used by the Plaintiffs in connection with the investigation, prosecution and settlements of the claims in the Action including, without limitation, the certification of the Action and prosecution of the claims in the Action against the Non-Settling Defendants” (ss. 12-13). This obligation is defined in the Cooperation Agreement as a “continuing obligation” that persists throughout the litigation as Eros may become aware of and collect further documents following his initial production (s. 17);

b) after completing his initial document production obligations by June 2, 2024, Eros was required to make himself available for a personal interview with the plaintiffs’ counsel, lasting up to 5 hours, to provide “information relating to the allegations in the Action” (s. 14);

c) within six months of the Cooperation Agreement’s execution (i.e., by October 3, 2024), Eros was required to pay \$60,000 to the plaintiffs’ counsel to be held in trust pending Court approval of the settlement (s. 2); and

d) at a date to be determined before the certification motion, Eros was required to “make himself reasonably available to provide an affidavit in support of either or both the certification of the Action and any summary judgment application brought by or against the plaintiffs in the Action, and to attend for cross-examination on any such affidavit” (s. 14);

12. upon entering into the Cooperation Agreement, plaintiff’s counsel Paul Champ (“**Champ**”) (and therefore the plaintiffs) knew or ought to have known that it (1) constituted a material change in the litigation landscape in this proceeding; (2) would likely (or did) cause the Lich Defendants to make different decisions in terms of how to conduct their defence; and (3) would seriously prejudice the Lich Defendants if not disclosed to them immediately, as required by law;

13. Eros’s alleged role in the Protest is central to the events on which the Lich Defendants’ liability turns. Knowledge of whether Eros intended to align himself with the plaintiffs was of critical importance to the Lich Defendants in determining how to conduct their defence;

Plaintiffs make deliberate decision not to disclose Cooperation Agreement

14. on May 14, 2024, counsel to the Lich Defendants, James Manson, wrote to Champ asking for disclosure of any settlement agreements between the plaintiffs and any defendants or members of any defendant classes. Champ responded that same day, stating that it was “not an appropriate time” for disclosure of that information, despite the facts that: (1) he had already executed the Cooperation Agreement with Eros; (2) the deadline for Eros to engage in his first act of required cooperation by providing documents to the plaintiffs was less than three weeks away; and (3) he knew or ought to have known that the Lich Defendants were likely in the process of drafting the Lich Defence, which, due to the plaintiffs’ allegation about Eros and the Lich Defendants’ “common design”, would likely involve at least some coordination with Eros;

15. on December 22, 2025, counsel for the GiveSendGo Defendants wrote to Champ demanding immediate disclosure of any settlement or cooperation agreements that the plaintiffs have made with any of the defendants or any members of the proposed defendant classes in this case;

16. on January 27, 2026, Champ provided the defendants' counsel with a copy of the Cooperation Agreement;

17. on February 6, 2026, counsel for the GiveSendGo Defendants wrote to Champ again, reiterating the demand to know whether any *other* settlement or cooperation agreements exist between the plaintiffs and other defendants or members of proposed defendant classes. Champ has still not responded to this request;

A stay of proceedings is warranted

16. the Cooperation Agreement changed the litigation landscape in this proceeding. Hence, the plaintiffs were required to disclose it as soon as it was executed. Yet, they failed to do so; the Cooperation Agreement was only produced by Champ on January 27, 2026, almost 22 months after its execution;

17. Champ's (and, by extension, the plaintiffs') conduct – in (1) failing to disclose the Cooperation Agreement to the Lich Defendants immediately after its execution; (2) refusing to disclose the agreement's existence at a time when Eros's obligation to cooperate was effective and when Champ knew or ought to have known that this would cause irreparable prejudice to the Lich Defendants; and (3) still refusing to this day to answer whether the plaintiffs have entered into any other settlement or cooperation agreements despite being asked repeatedly – amounts to an abuse of process. A permanent stay of proceedings is the only remedy that can cure the prejudice to the Lich Defendants. Such a remedy is warranted in these circumstances;

- 18. the *Courts of Justice Act*, s. 106, R.S.O. 1990, c. C.43; and
- 19. Rules 37, 49.14 and 57 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- 1. the Affidavit of Belinda Karahalios, sworn February 12, 2026;
- 2. the Affidavit of Selena Bird, sworn February 23, 2026;
- 3. the pleadings filed in this proceeding; and
- 4. such further and other evidence as counsel may advise and this Court permit.

February 23, 2026

CHARTER ADVOCATES CANADA

[Redacted]

James Manson (LSO# 54963K)

[Redacted]

Christopher Fleury (LSO# 76485L)

[Redacted]

Lawyer for the Lich Defendants

TO: CHAMP & ASSOCIATES

[Redacted]

Paul Champ (LSO# 45305K)

[Redacted]

Lawyer for the Plaintiffs

AND TO: Dimitrios (Jim) Karahalios (LSO# 56101S)
Jim Karahalios Professional Corporation

[REDACTED]

Andrew Burgess (LSO# 670430)
Andrew Burgess Professional Corporation

[REDACTED]

Lawyers for the Defendants GiveSendGo LLC,
Jacob Wells, Chris Garrah, Nicholas St. Louis,
Benjamin Dichter, and Brigitte Belton.

AND TO: OVERWATER BAUER LAW

[REDACTED]

Shelley Overwater

[REDACTED]

Lawyer for the Defendants Patrick James
King and Joe Jacob Abram Janzen

AND TO: TAYLOR MERGUI LAW GROUP

[REDACTED]

Ryan O'Connor

[REDACTED]

Lawyer for the Defendant Chad Eros

LI et al.
Plaintiffs

-and-
BARBER et al.
Defendants

Court File No. CV-22-00088514-00CP

SUPERIOR COURT OF JUSTICE
at Ottawa

NOTICE OF MOTION

CHARTER ADVOCATES CANADA

James Manson (LSO# 54963K)

Christopher Fleury (LSO# 76485L)

Lawyer for the Defendants/Moving Party
Tamara Lich, Tom Marazzo, Chris Barber, Sean Tjessen, Miranda Gasior,
Daniel Bulford, Ryan Mithiewicz, Dale Enns, Freedom 2022 Human Rights
and Freedoms, Brad Howland, Harold Jonker and Jonker Trucking Inc.

**ONTARIO
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**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
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and GEOFFREY DEVANEY**

Plaintiffs

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
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NICHOLAS ST. LOUIS (a.k.a. @NOBODY CARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC, JACOB
WELLS, HAROLD JONKER, JONKER TRUCKING INC., and BRAD HOWLAND**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF [REDACTED] KARAHALIOS

I, [REDACTED] KARAHALIOS, of the [REDACTED], in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the [REDACTED] Jim Karahalios (“**Karahalios**”) and an employee of the Jim Karahalios Professional Corporation, one of the two law firms representing the Defendants GiveSendGo LLC, Jacob Wells, Benjamin Dichter, Brigitte Belton, Chris Garrah, and Nicholas St. Louis. (hereinafter referred to as the “**GiveSendGo Defendants**”). As such, I have knowledge of the matters contained in this affidavit. Where my knowledge is based on information from other sources, I state the source of that information and believe that information to be true.

2. I am generally aware of the procedural history of this action including that the GiveSendGo Defendants bring this motion to the Ontario Superior Court of Justice on a date to be provided by the Court, seeking a stay of proceedings for abuse of process.
3. I have attached the plaintiffs' Further Fresh as Amended Statement of Claim as **Exhibit "A"**. I have attached the Statement of Defence of the GiveSendGo Defendants (the "**GiveSendGo Defence**") as **Exhibit "B"**.
4. On February 6 and 7, 2024, plaintiffs' counsel, Paul Champ ("**Champ**"), wrote to counsel for the GiveSendGo Defendants, counsel for the Defendants, Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior, Daniel Bulford, Ryan Mihilewicz, Dale Enns, Brad Howland, Harold Jonker, Jonker Trucking Inc., and Freedom 2022 Human Rights and Freedoms (hereinafter referred to as the "**Lich Defendants**"), and counsel for Defendants Patrick James King and Joe Jacob Abram Janzen (hereinafter referred to as the "**King Defendants**") to advise them that, if they did not file their defences within 10 days of the expiry of the stay effected by the anti-SLAPP motion brought by the Lich Defendants and King Defendants, they would be noted in default. I attach a copy of these emails from Champ as **Exhibit "C"**.
5. Ultimately, the Lich Defendants and King Defendants appealed this Court's ruling on the anti-SLAPP motion to the Court of Appeal, which scheduled the appeal for October 28, 2024.
6. On May 14, 2024, counsel to the Lich Defendants, James Manson, wrote to Champ asking for disclosure of any settlement agreements between the plaintiffs and any defendants or members of any defendant classes. Champ responded that same day stating that it was not an appropriate time for disclosure of that information. That email exchange is attached as **Exhibit "D"**.

7. On December 22, 2025, Andrew Burgess (“**Burgess**”), one of the lawyers acting for the GiveSendGo Defendants, wrote to Champ demanding immediate disclosure of any settlement or cooperation agreements that the plaintiffs had made with any of the defendants or any members of the proposed defendant classes in this case. That email is attached as **Exhibit “E”**.
8. On January 27, 2026, Champ wrote to the other parties in the litigation, responding to Burgess’ demand set out above. Champ attached a cooperation agreement between the plaintiffs and Chad Eros (the “**Cooperation Agreement**”) that was executed by both parties on April 3, 2024. Champ’s email is attached as **Exhibit “F”** and the Cooperation Agreement is attached as **Exhibit “G”**. Prior to this email on January 27, 2026, counsel for the plaintiffs had never provided a copy of the Cooperation Agreement to the GiveSendGo Defendants (either through counsel or otherwise), nor had counsel for the plaintiffs ever advised any of the GiveSendGo Defendants (through counsel or otherwise) that a cooperation agreement of any kind existed.
9. Neither the GiveSendGo Defendants nor Eros have ever initiated or threatened crossclaims against one another. While preparing the GiveSendGo Defence, neither Karahalios nor Burgess had any knowledge that Eros had agreed to cooperate with the plaintiffs.
10. On February 6, 2026, Burgess wrote to Champ (in an email attached as **Exhibit “H”**), reiterating his demand to know whether any *other* settlement or cooperation agreements exist between the plaintiffs and other defendants or members of proposed defendant classes. As of today’s date, Champ has still not responded to this request.
11. I make this affidavit in support of this motion for abuse of process and for no other or improper purpose.

SWORN BEFORE ME on February 12, 2026, by the deponent at the City of [REDACTED] in the Province of Ontario.

[REDACTED]

Dimitrios (Jim) Karahalios, LSO 56101S
Commissioner for Taking Affidavits

[REDACTED]

[REDACTED] KARAHALIOS

ZEXI LI, et al.
Plaintiffs

- and -

CHRIS BARBER, et al.
Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED IN OTTAWA

AFFIDAVIT OF [REDACTED] KARAHALIOS

Dimitrios (Jim) Karahalios (LSO# 56101S)
Jim Karahalios Professional Corporation

[REDACTED]

Andrew Burgess (LSO# 670430)
Andrew Burgess Professional Corporation

[REDACTED]

Lawyers for the Defendants, GiveSendGo LLC, Jacob Wells, Chris Garrah, Nicholas St. Louis, Benjamin Dichter, and Brigitte Belton.

This is Exhibit "A" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]

A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Court File No: CV-22-00088514-00CP

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JASON LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC,
JACOB WELLS, HAROLD JONKER, JONKER TRUCKING INC., and BRAD HOWLAND**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

FURTHER FRESH AS AMENDED STATEMENT OF CLAIM
(Claim originally issued on February 4, 2022, as amended February 18, 2022 and
March 14, 2023)

TO THE DEFENDANTS

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 an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or 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 is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____

Registrar
Court House,
161 Elgin Street
Ottawa, Ontario

TO: Chris Barber
[Redacted]

AND TO: Benjamin Dichter
[Redacted]

AND TO: Tamara Lich
[Redacted]

AND TO: Patrick King
[Redacted]

AND TO: James Bauder
[Redacted]

AND TO: Brigitte Belton
[REDACTED]

AND TO: Daniel Bulford
[REDACTED]

AND TO: Dale Enns
[REDACTED]

AND TO: Chad Eros
[REDACTED]

AND TO: Chris Garrah
[REDACTED]

AND TO: Miranda Gasior
[REDACTED]

AND TO: Joe Janzen
[REDACTED]

AND TO: Jason LaFace
[REDACTED]

AND TO: Tom Marazzo
[REDACTED]

AND TO: Ryan Mihilewicz
[REDACTED]

AND TO: Sean Tiessen
[REDACTED]

AND TO: Nicholas St. Louis (a.k.a. "@NobodyCaribou")
[REDACTED]

AND TO: Freedom 2022 Human Rights and Freedoms Inc.
[REDACTED]

AND TO: GiveSendGo LLC
[REDACTED]

AND TO: Jacob Wells

[REDACTED]

AND TO: Harold Jonker

[REDACTED]

AND TO: Jonker Trucking Inc

[REDACTED]

AND TO: Brad Howland

[REDACTED]

CLAIM

1. The Plaintiffs, on behalf of the classes described herein, claim the following:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiffs as the representative Plaintiffs for the Resident Class, the Business Class and the Employee Class (as defined below);
 - (b) an order certifying this action as a class proceeding for semi-trailer truck and donor class defendants and appointing Harold Jonker and Jonker Trucking Inc. as the representative Defendants for the Trucker Class and Brad Howland as the representative Defendant for the Donor Class (as defined below);
 - (c) general damages for private nuisance and public nuisance, in the amount of \$60-million for pain and suffering and psychological distress, or any such amount that this Honourable Court deems appropriate;
 - (d) special damages for private nuisance and public nuisance, in the amount of \$70-million for business losses;
 - (e) special damages for private nuisance and public nuisance, in the amount of \$150-million for loss of wages;
 - (f) disgorgement of all funds raised by the Defendants for the purpose of facilitating the ongoing tortious conduct described herein;
 - (g) punitive damages in the amount of \$10-million;
 - (h) injunctive relief prohibiting the continuation of the tortious behaviour;

- (i) an injunction, declaration or order pursuant to section 101 of the *Courts of Justice Act*, RSO 1990, c C.43 restraining the Defendants and any of their respective affiliates, subsidiaries, successors and assigns, employees, agents, servants or representatives dissipating, alienating, transferring, assigning, encumbering or in any way dealing with assets fundraised or otherwise received or obtained by the Defendants or held on their behalf in any way related to the Freedom Convoy (the “Freedom Convoy Assets”) and an order preserving all Freedom Convoy Assets;
- (j) an order pursuant to section 101 of the *Courts of Justice Act*, RSO 1990, c C.43 that any Freedom Convoy Assets preserved or maintained further to such restraint or preservation order or otherwise preserved through the Escrow Agent appointed pursuant to the Order dated February 28, 2022, be preserved pending trial and post judgment, to permit any judgment in this action be enforced as against those assets;
- (k) pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, as amended;
- (l) the costs of this action, including HST;
- (m) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to section 26 of the *Class Proceedings Act*, 1992, S O 1992, c. 6; and
- (n) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Since 2020, the COVID-19 pandemic has caused significant stress, severe illness, death and grief to people across Canada.

3. Governments at all levels across the country adopted public health measures to prevent severe illness and death from COVID-19. These public health measures caused significant disruption to the lives of every Canadian.

4. To express their political opposition to COVID-19 public health measures, the Defendants organized a "Freedom Convoy" of vehicles, including a large number of semi-tractor-trailer trucks, to travel from different parts of Canada and converge on the national capital of Ottawa and occupy its roads and streets for an indefinite period of time.

5. This class action is brought by the Plaintiffs on behalf of the residents, workers and businesses of downtown Ottawa who were harmed by the three-week Freedom Convoy occupation. The Defendants are responsible for organizing, encouraging, funding, facilitating or participating in the main coordinated tactics of the Freedom Convoy protest, being the deployment of semi-tractor-trailer trucks continuously idling and blocking the downtown streets of Ottawa while blasting ear-splitting air and train horns.

6. The Defendants who organized the Freedom Convoy wanted to conduct a large demonstration in the vicinity of the Parliament Buildings in downtown Ottawa. Like many protesters, they wanted to advance their grievances to political leaders. Unlike other protesters, the Defendants wanted to force or compel the Government of Canada, and other levels of governments, to accept their demands. To ensure that happened, these Defendants designed a plan to block all the streets and roadways around Parliament Hill and the surrounding neighbourhoods for an indefinite period, and to make as much noise as possible to cause discomfort and distress for the residents and businesses of downtown Ottawa in order to coerce political leaders. To make that noise, these Defendants planned, organized, encouraged and directed Freedom Convoy participants to blast the horns on their vehicles non-stop, for several hours.

7. As planned by the organizers, the Freedom Convoy vehicles began to arrive in Ottawa on Friday, January 28, 2022, and the protests formally launched on Saturday, January 29, 2022. Unlike most protests, the Freedom Convoy decided to stay and keep protesting indefinitely until the Government of Canada met their demands of dropping all public health measures across Canada. The fact that public health measures are predominantly implemented by provincial governments did not deter the Defendants.

8. The Freedom Convoy protest turned into a prolonged and illegal occupation of downtown Ottawa, causing significant distress to residents and making it almost impossible for businesses to operate and people to work. During the course of the Freedom Convoy occupation of downtown Ottawa, the mayor of Ottawa and the premier of Ontario declared states of emergency, and the Government of Canada invoked the *Emergencies Act*, RSC 1985, c. 22 (4th Supp) to give law enforcement and federal authorities additional powers to bring the illegal and dangerous activities of the Freedom Convoy to an end on or about February 20, 2022.

9. A key tactic of the Freedom Convoy was blasting vehicle horns all day and into the night. These horns included the air horns and train horns on the many semi-trucks which blocked the streets of downtown Ottawa. Air horns and train horns emit noise in the range of 100 to 150 decibels and are designed to produce a warning from afar that a semi-truck is approaching. These horns are not meant to be used for longer than a few seconds because the sound levels are dangerous and can cause permanent damage to the human ear. Despite these known dangers, the Freedom Convoy semi-trucks were blasting these horns almost continuously for 12 to 18 hours per day, causing significant harm and distress to the residents of downtown Ottawa.

10. This claim was issued while the Freedom Convoy protest was ongoing. In the context of this action, the Plaintiff Zexi Li brought a motion for an injunction prohibiting the blasting of air horns and train horns in the area of downtown Ottawa. The Defendants Chris Barber, Tamara Lich and Benjamin Dichter opposed the injunction, but the Honourable Justice Hugh McLean granted the order for an interim

injunction on February 7, 2022. After the horn injunction, the Freedom Convoy participants stopped the constant horn blasting, but many still honked their horns together at different times, in breach of Mr Justice McLean's order.

11. Freedom Convoy vehicles remained parked on public streets and roads throughout the duration of the occupation, with their engines idling 24 hours per day. This led to the emission of noxious diesel fumes from 300 to 500 semi-trucks congregated in a relatively small area for 21 days in downtown Ottawa. This resulted in an unpleasant odour and, more seriously, caused irritation to the eyes and breathing of people in the downtown area. Prolonged exposure to diesel exhaust can cause acute, short-term and long-term health problems.

12. The historical neighbourhood around the Parliament Buildings in Ottawa is home to approximately 24,000 residents. These residents are used to the inconvenience of large demonstrations and protests. Sometimes they even join in if they support the cause. These residents understand and respect the importance of democratic freedoms, including the freedoms of association, assembly and expression. But they have never experienced anything like the constant and excruciatingly loud horns of the Defendants' Freedom Convoy and the prolonged occupation of their streets. For the approximately 24,000 residents who live closest to the protests, the non-stop blaring horns caused unbearable torment in the sanctity of their own homes.

13. Hundreds of businesses operate in downtown Ottawa with thousands of employees. The blocked roads, diesel fumes, and constant blasting of horns deterred customers and made it difficult to impossible for many businesses to operate. As a result, most businesses in downtown Ottawa closed entirely, causing significant losses. Most businesses that remained open saw a significant drop in revenue.

14. Over 60,000 people work in downtown Ottawa. Many were laid off or had shifts cancelled because their employer closed or restricted their operations due to the

public nuisance caused by the Freedom Convoy occupation. These employees lost wages over the course of the Convoy protest.

15. The Plaintiffs bring this class action in private nuisance and public nuisance against the Defendants for the serious harms and losses experienced by the residents, businesses and workers in downtown Ottawa.

16. The individual organizer Defendants were responsible for planning, calling for, promoting, inciting, coordinating and directing the Freedom Convoy protest in Ottawa.

17. There were approximately 400 semi-tractor trucks that participated in the Freedom Convoy protests. Acting together and in concert, these trucks blockaded the streets of downtown Ottawa. The drivers of these trucks also idled nearly 24 hours per day and emitted noxious diesel fumes. The drivers also participated in the honking dangerously loud air and train horns in a coordinated fashion at all hours of the day and night. This class action names Defendant class representatives for the owners of the trucks and the operators of the trucks.

18. Thousands of people donated funds to the Freedom Convoy protests with the purpose of facilitating, supporting and inciting the Freedom Convoy truckers to stay in Ottawa for as long as possible, honking horns and blocking streets, with the knowledge that these activities were or likely were substantially and unreasonably interfering with the residents, businesses and workers of downtown Ottawa. This class action names a Defendant class representative for donors who contributed funds to the Freedom Convoy truckers when the donors knew or ought to have known that the protest was participating in illegal activities and substantially interfering with residents, businesses and workers in downtown Ottawa.

PARTIES

19. The Plaintiff Zexi Li resides in Ottawa, Ontario, within five blocks of Parliament Hill and works in Ottawa for the Government of Canada.

20. The Plaintiff Happy Goat Coffee Company Inc (“Happy Goat”) is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44. The Plaintiff Happy Goat is an Ottawa business that purchases direct trade coffee, roasts the beans locally, and operates several coffee kiosk and café locations in and around Ottawa. The Plaintiff Happy Goat operates three locations within the affected area of downtown Ottawa, being cafés at 229 Rideau Street and 380 Sussex Drive and a kiosk at the Rideau Station on the O-Train Confederation Line under the Rideau Centre mall. The Plaintiff’s coffee business at those three locations was forced to close due to the Freedom Convoy occupation of downtown Ottawa.

21. The Plaintiff 7983794 Canada Inc., carrying on business as Union: Local 613, is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44 (hereinafter “Union: Local 613”). The Plaintiff Union: Local 613 operates a restaurant at 315 Somerset Street West in Ottawa, Ontario. The Plaintiff’s restaurant business has been seriously affected by the presence of the Freedom Convoy in the neighbourhood.

22. The Plaintiff Geoffrey Devaney resides in Ottawa, Ontario. He does not reside downtown but is employed full-time as a restaurant server in the Byward Market. The restaurant where he works was affected by the Freedom Convoy occupation of downtown Ottawa resulting in the Plaintiff Devaney losing shifts and income.

23. The Defendant Chris Barber resides in Swift Current, Saskatchewan. He was one of the main organizers of the Freedom Convoy and was one of their official spokespersons. He is a truck driver and owns a trucking company in Saskatchewan. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-

profit corporation described further below. He was later criminally charged for his role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

24. The Defendant Benjamin Dichter resides in Toronto, Ontario. He was one of the main organizers of the Freedom Convoy, managing their communications strategy by organizing press conferences, social media and press releases, and acting as one of their official spokespersons. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below. Dichter also played an important role in fundraising Bitcoin cryptocurrency to further support, facilitate, encourage and incite the ongoing activities of the Freedom Convoy protest.

25. The Defendant Tamara Lich resides in Medicine Hat, Alberta. She was one of the main organizers of the Freedom Convoy and acted as a primary spokesperson. She created the Freedom Convoy Facebook page and coordinated the main Freedom Convoy fundraising activities on crowdsourcing platforms GoFundMe and GiveSendGo. She is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below. She was later criminally charged for her role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

26. The Defendant Patrick King resides in Red Deer, Alberta. He is one of the organizers of the Freedom Convoy occupation and regularly encouraged the participants to engage in the nuisance activities. He was later criminally charged for his role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

27. The Defendant James Bauder resides in Alberta. He was one of the original organizers of the Freedom Convoy. He created the Canada Unity group and website and developed the original plan to occupy Ottawa, referred to below as "Operation Bearhug". He is the author of a Memorandum of Understanding on behalf of Canada

Unity that called for the Governor General and the Senate of Canada to take power from the Prime Minister and force federal and provincial governments to lift all public health measures related to the COVID-19 pandemic, including mask mandates and vaccine passports. He prepared the itineraries for the trucks to travel to Ottawa and he supported the ongoing nuisance activities of the Freedom Convoy, including and in particular the blockade of Ottawa streets.

28. The Defendant Brigitte Belton resides in Wallaceburg, Ontario. She was one of the original organizers of the Freedom Convoy plan and acted as a “captain” and liaison with truck drivers from Ontario who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

29. The Defendant Daniel Bulford resides in Ottawa, Ontario. He is a former police officer and regular member of the Royal Canadian Mounted Police. He was one of the organizers of the Freedom Convoy activities while in Ottawa. He used his extensive policing experience and contacts to act as a liaison with law enforcement agencies on behalf of the Freedom Convoy protestors. He also played an important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks.

30. The Defendant Dale Enns resides in or near Winkler, Manitoba. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison with truck drivers from Manitoba who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

31. The Defendant Chad Eros resides in Moose Jaw, Saskatchewan. He is a chartered accountant and, among other activities that supported the illegal protest, he played a key role in managing the funds raised, including distributing money to truck drivers and other Freedom Convoy participants to further the tortious behaviour set out in this claim. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

32. The Defendant Chris Garrah resides in Ottawa, Ontario. He was one of the organizers of the Freedom Convoy and, among other activities that supported the illegal protest, he played a role in collecting and distributing money to truck drivers and other participants to further the tortious behaviour set out in this claim. He created the Adopt-a-Trucker campaign on the GiveSendGo fundraising platform. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

33. The Defendant Miranda Gasior resides in Lloydminster, Saskatchewan. She was one of the organizers of the Freedom Convoy and, among other activities that supported the illegal protest, she played a role in collecting and distributing money to truck drivers and other participants to further the tortious behaviour set out in this claim. She is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

34. The Defendant Joe Janzen resides in or around Winkler, Manitoba. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison with truck drivers from Manitoba who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

35. The Defendant Jason LaFace resides in Sudbury, Ontario. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison with truck drivers from Northern Ontario who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

36. The Defendant Tom Marazzo resides in Amherstview, Ontario. He is a former military officer in the Canadian Armed Forces. He was one of the organizers of the Freedom Convoy and used his military skills and training to play an important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks.

37. The Defendant Ryan Mihilewicz resides in Prince Albert, Saskatchewan. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison

with truck drivers from Saskatchewan who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

38. The Defendant Sean Tiessen resides in Grand Forks, British Columbia. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison with truck drivers from British Columbia who travelled to Ottawa to engage together in the tortious behaviour set out in this claim. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

39. The Defendant Nicholas St. Louis resides in Ottawa, Ontario. He is a cryptocurrency enthusiast who uses the Twitter account “@NobodyCaribou” and operates the Bitcoin Stoa website and Youtube channel. He refers to himself as the “Bitcoin Team Lead” and was responsible for raising Bitcoin donations to support the Freedom Convoy and distributing Bitcoin wallets to Freedom Convoy truckers.

40. The Defendant Freedom 2022 Human Rights and Freedoms (“Freedom 2022”) is a not-for-profit corporation incorporated on January 30, 2022 under the *Canada Not-for-profit Corporations Act*, SC 2009, c. 23. Freedom 2022 was established for the purpose of receiving and distributing money raised in support of the Freedom Convoy 2022 through fundraising campaigns hosted by online crowdfunding platforms such as GiveSendGo. It was incorporated after the crowdfunding platform GoFundMe suspended the Freedom Convoy 2022 fundraising account, which had been organized by the Defendants Lich and Dichter. The Defendants Dichter, Eros, Gasior, Lich, Barber, Garrah and Tiessen are all named directors of the Defendant Freedom 2022.

41. The Defendant GiveSendGo LLC (“GiveSendGo”) is a corporation based in the state of Delaware, United States of America. The Defendant GiveSendGo provides a crowdfunding platform that allows people to raise funds from donations for a range of events and causes. GiveSendGo posts a page on its website for the fundraising campaigns for clients and collects donated money for a fee of 2.9% of the funds raised. GiveSendGo agreed to host a fundraising campaign for the Freedom Convoy

after GoFundMe, another crowdfunding platform, suspended a Freedom Convoy fundraising campaign because of concerns the donated money was going to support illegal activity.

42. The Defendant Jacob Wells resides in Virginia Beach, Virginia, United States of America, and has been the Chief Executive Officer of GiveSendGo since 2013. The Defendant Wells approved of the Freedom Convoy fundraising campaign on GiveSendGo with knowledge that GoFundMe viewed the activities as illegal. When the Defendant Freedom 2022 encountered difficulties opening a bank account in Canada due to the activities of the Freedom Convoy protest, the Defendant Wells agreed to help by personally facilitating the fundraising campaign and holding any funds collected on behalf of Freedom 2022 and the Freedom Convoy protesters.

43. The Defendants Barber, Dichter, Lich, King, Bauder, Belton, Bulford, Enns, Eros, Garrah, Gasior, Janzen, LaFace, Marazzo, Mihilewicz, Tiessen and St. Louis are responsible for the planning, strategy, organizing, fundraising, material support, logistics, and tactics of the Freedom Convoy occupation, including the tortious behaviour described further below, and are hereinafter referred to as the "Organizer Defendants". The Defendant Freedom 2022 was created by the other Organizer Defendants as a conduit for funds and is also an Organizer Defendant. The Defendants GiveSendGo and Wells materially contributed to the fundraising for the Freedom Convoy protest when they knew or ought to have known the Freedom Convoy activities were illegal and substantially and unreasonably interfering with the lives of the residents, businesses and workers in downtown Ottawa, and both are also referred to hereinafter as Organizer Defendants.

44. The Defendant Harold Jonker resides in, and at the time of the events in question was a councillor for, the West Lincoln township of Ontario. He owns and operates a trucking business, the Defendant Jonker Trucking Inc. The Defendant Jonker personally drove a semi-tractor truck to Ottawa and participated in the tortious activities of the Freedom Convoy protest. The Defendant Jonker was a vocal

and active participant in the Freedom Convoy, giving numerous media interviews to support, encourage and promote the ongoing occupation of Ottawa. The Defendant Jonker also acted as a road captain for Southwestern Ontario and encouraged and incited others to take part. The Defendant Jonker is a proposed representative Defendant on behalf of all drivers who operated semi-tractor trucks and used those trucks in the tortious activities described in this claim (the “Trucker Class Defendants”, described in further detail below).

45. The Defendant Jonker Trucking Inc. (“Jonker Trucking”) is a corporation in Caistor Centre, Ontario, that owns and operates over 12 semi-tractor trucks. The Defendant Jonker Trucking owned at least 11 semi-tractor trucks that were driven to Ottawa and used to participate in the tortious activities of the Freedom Convoy protest. The Defendant Jonker Trucking was aware of its trucks being used in this manner. The Defendant Jonker Trucking is a proposed representative Defendant on behalf of all owners of semi-tractor trucks that were used for the tortious activities described in this claim (the “Trucker Class Defendants”, described in further detail below).

46. Brad Howland is a successful businessman who resides in Kars, New Brunswick, and owns the corporation Easy Kleen Pressure Systems Ltd., which is based in Sussex, New Brunswick. Howland supported the activities of the Freedom Convoy and through his company donated \$75,000 USD on or about February 9, 2022, to GiveSendGo to support, encourage and facilitate the ongoing tortious and unlawful activities of the Freedom Convoy protest. He personally travelled to Ottawa and participated in the Freedom Convoy protest on February 11-12, 2022. The Defendant Howland is the proposed representative Defendant on behalf of all those who donated to the Freedom Convoy after February 4, 2022 (the “Donor Class Defendants”). By this date, the Donor Class Defendants knew or ought to have known that the Freedom Convoy participants, including the Trucker Class Defendants, were committing the tortious acts and unlawful behaviour described further below. The Donor Class Defendants donated funds to the Freedom Convoy with the intention of encouraging and facilitating those acts.

47. The Defendants engaged in a common design to occupy downtown Ottawa and engage in the tortious behaviour described further below.

OCCUPATION ZONE AND PLAINTIFF CLASSES

48. The Defendants engaged in a common design to occupy downtown Ottawa for an indefinite period with semi-trucks and semi-truck-trailers, to blockade the roads and streets, and to create excessive noise and other disturbances to substantially interfere with and cause distress to everyone who lives, works or runs a business in downtown Ottawa, with the primary objective of compelling the Government of Canada, and other levels of government in Canada, to immediately drop all public health measures related to COVID-19.

49. The area of downtown Ottawa that the Trucker Defendants completely or partially blockaded, and in which they caused extreme noise and air pollution, is hereinafter referred to as the "Occupation Zone", and is bounded in the following way:

All addresses and properties on either side of Wellington Street from Booth Street to MacKenzie Avenue, MacKenzie Avenue from Wellington Street to St. Patrick Street, St. Patrick Street from MacKenzie Avenue to Sussex Drive, Sussex Drive from St. Patrick Street to Boteler Street, Boteler Street from Sussex Drive to King Edward Avenue, King Edward Avenue from Boteler Street to Murray Street, Murray Street from King Edward Avenue to Beausoleil Drive, Beausoleil Drive from Murray Street to Friel Street, Friel Street from Beausoleil Drive to Laurier Avenue East, Laurier Avenue East from Friel Street to Waller Street, Waller Street from Laurier Avenue to Nicholas Street, Nicholas Street from Waller Street to Laurier Avenue, Laurier Avenue from Nicholas Street to the Queen Elizabeth Driveway, Queen Elizabeth Driveway from Laurier Avenue to Somerset Street West, Somerset Street West from Queen Elizabeth Driveway to Bay Street, Bay Street from Somerset Street West to Lisgar Street, Lisgar Street from Bay Street to Bronson Avenue, Bronson Avenue from Lisgar Street to Slater Street, Slater Street from Bronson Avenue to Albert Street, Albert Street from Slater Street to Booth Street, Booth Street from Albert Street to Wellington Street.

Occupation Zone in downtown Ottawa, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Resident Class.

52. The Plaintiffs Happy Goat and Union: Local 613 bring this action pursuant to the *Class Proceedings Act, 1992* on their own behalf and on behalf of all other businesses that operate within the Occupation Zone in downtown Ottawa and experienced business losses due to tortious behaviour of the Defendants, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Business Class.

53. The Plaintiff Geoffrey Devaney brings this action pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all other persons who work as employees within the Occupation Zone in downtown Ottawa and experienced wage loss due to the tortious behaviour of the Defendants, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Employee Class.

DEFENDANT CLASSES

54. There were approximately 400 semi-trailer trucks parked on downtown Ottawa streets at some point from January 29, 2022 to February 19, 2022, taking part in the Freedom Convoy demonstration.

55. The Defendant Jonker is a successful long-haul semi-tractor truck owner and operator. He drives semi-tractor trucks himself and owns the Defendant Jonker Trucking. The Defendant Jonker was an active and vocal participant in the Freedom Convoy protest, giving several media interviews. The Defendant Jonker engaged in the tortious activities described below and also has the means to represent the interests of other semi-tractor truck operators who participated in the Freedom Convoy occupation.

56. The Defendant Jonker Trucking is a corporation owned by the Defendant Jonker. At least 11 semi-tractor trucks owned by the Defendant Jonker Trucking participated in the tortious activities described below with the knowledge or at the direction of the Defendant Jonker Trucking. The Defendant Jonker Trucking has the means to represent the interests of other semi-tractor truck owners with trucks that were used in the Freedom Convoy occupation.

57. Together, the Defendants Jonker and Jonker Trucking ought to be appointed as representative defendants pursuant to the *Class Proceedings Act, 1992* on their own behalves and on behalf of all operators and owners of semi-tractor trucks that were parked within the Occupation Zone in downtown Ottawa at any time between January 29, 2022, and February 20, 2022, and/or which honked air horns or train horns during the protest, blocked streets, and idled their engines. This class of Defendants are referred to in this claim as the Trucker Class Defendants.

58. Several thousand people from across Canada and abroad donated money to support the Freedom Convoy and to encourage, assist and incite the Trucker Class Defendants to remain in Ottawa in the Occupation Zone for as long as possible. Any person donating funds to the Freedom Convoy truckers on or after February 4, 2022, knew or ought to have known that the truckers were engaged in tortious or illegal activity and were substantially and unreasonably interfering with the residents, businesses and workers of downtown Ottawa.

59. The Defendant Howland is a successful businessman who resides in New Brunswick. He donated US\$75,000 (over \$95,000 CAD) to the Freedom Convoy through GiveSendGo after February 4, 2022. He was a vocal supporter of the Freedom Convoy protests, giving media interviews and personally visiting Ottawa to participate on or about February 10, 2022. The Defendant Howland has the means to represent the interests of all donors to the Freedom Convoy and ought to be appointed as the representative defendant pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all donors to the Freedom Convoy protest on or after February 4, 2022.

ORGANIZING THE FREEDOM CONVOY OCCUPATION

60. In early January 2022, the Defendants Barber, Bauder and Belton decided to organize a protest in Ottawa to pressure or compel the Government of Canada to withdraw all COVID-19 public health measures. They discussed and created a common plan to organize a convoy of vehicles, including a large number of semi-trailer trucks, to travel from different parts of Canada and converge in the national capital of Ottawa. Originally called "Operation Bearhug", the plan was to cause heavy traffic with large vehicles and create gridlock by occupying downtown Ottawa for several days.

61. In January 2022, the Defendant King had a very popular Facebook account, called "therealpatking", where he regularly posted recorded videos or streamed live video, providing commentary and opinions. His videos and streams regularly attracted 100,000 to 200,000 views. The Defendants Barber, Bauder and Belton were in contact with the Defendant King on or about January 11, 2022, to recruit him to promote their plan for a convoy to Ottawa.

62. The Defendant King posted his first video promoting the convoy plan on January 12, 2022. The video attracted thousands of 'likes' and comments.

63. On January 13, 2022, the Defendant Lich spoke to the Defendant Barber and became part of the organizing group. The Defendant Lich offered to raise funds to assist truckers and others to travel to Ottawa.

64. On January 13, 2022, the Defendant King hosted a virtual meeting on his Facebook page and streamed the video to his thousands of followers. The Defendants King, Barber, Bauder, Belton, Enns and Janzen all participated in the livestream. The group discussed the planning of itineraries and recruiting regional road captains, and told their viewers that information would be posted soon on the Defendant Bauder's website, www.canadian-unity.com. The group also discussed a new name for the common venture - "Freedom Convoy 2022".

65. On January 14, 2022, the Defendant Lich created a Facebook page called “Freedom Convoy 2022” which was described as a “meeting place to discuss logistics, organization and mobilization to restore our Freedoms”. The Defendants used this Facebook page to discuss logistics, organization and mobilization for the Freedom Convoy. The initial administrators for the Freedom Convoy Facebook page were Lich and Barber.

66. The Defendant Lich recruited the Defendant Dichter to help organize communications, act as a spokesperson and develop public relations strategy.

67. The Defendant Barber also made the Defendant King an administrator of the Freedom Convoy Facebook page. Later, the Defendant Dichter became an administrator for the Freedom Convoy Facebook page.

68. On or around January 14, 2022, the Defendant Lich created a page for the Freedom Convoy on the crowdsourced fundraising website GoFundMe. The Defendant Lich was listed as the organizer of this GoFundMe page, and the Defendant Dichter was listed as a Team Member.

69. The Defendant Bauder developed the itineraries from across Canada, with a planned arrival in Ottawa on January 29, 2022. The Defendants Bauder and King drew on their networks of contacts and followers to recruit regional captains from each province who could organize and coordinate the convoy locally.

70. On or about January 16, 2022, the Defendants posted the itineraries and contact information for regional captains on the Defendant Bauder’s Canadian Unity website and the Freedom Convoy Facebook page.

71. The Defendant King continued to host Facebook livestreams promoting the Freedom Convoy plan and providing updates to his approximately 300,000 followers.

72. The Defendants Barber, Bauder, Belton, Lich, King and others developed an outline of their plan. It was decided that the demonstration would not be for a few days. Instead, the plan was to occupy downtown Ottawa for an indefinite period until their political demands were met. The common intention of the Defendants was to substantially interfere with and disturb all downtown Ottawa residents and businesses with their occupation, and thereby coerce the Government of Canada to meet their demands to repeal all COVID-19 public health measures.

73. The Defendant Lich's GoFundMe fundraising campaign was highly successful and raised approximately \$1-million by January 21, 2022. The successful fundraising campaign persuaded many of the Trucker Class Defendants to join the Freedom Convoy and travel to Ottawa.

74. On the GoFundMe page, the Organizer Defendants discussed the logistics and organization for the Freedom Convoy and solicited donations from supporters to assist them with their common plan to travel to and occupy Canada's capital, and to seriously interfere with the rights of the class members.

75. The Organizer Defendants divided responsibilities among themselves for: (i) attracting and mobilizing Trucker Defendants to join their enterprise; (ii) planning the logistics of feeding, fuelling and providing supplies to a convoy of vehicles driving to and then occupying Ottawa for an indefinite period; and (iii) fundraising to support the entire enterprise. The Organizer Defendants also decided on leaders, spokespersons, and "captains" for different regions who acted as primary liaisons with the Trucker Class Defendants.

76. The Organizer Defendants and Trucker Class Defendants discussed and coordinated plans for how they would occupy Ottawa and how they would attempt to reach their common goals.

77. The Defendants Lich and Barber prepared a Code of Conduct and registration forms for Freedom Convoy truckers and asked the road captains to collect the forms from the participants.

78. The Freedom Convoy departed from Surrey, British Columbia on January 23, 2022. The Defendants Lich, Barber and King joined the convoy in Alberta on or about January 24, 2022.

79. The Defendant Sean Tiessen was a road captain for British Columbia and joined the convoy on or about January 24, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

80. The Defendant Miranda Gasior was a road captain for Saskatchewan and joined the convoy on or about January 24, 2022. She promoted the Freedom Convoy on her Facebook page, "Saskatchewan Citizens Uncensored", and personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

81. The Defendant Ryan Mihilewicz was a road captain for Saskatchewan and joined the convoy on or about January 24, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

82. The Defendant Dale Enns was a road captain for Manitoba. He was responsible for registering and organizing a group of about 100 truckers who joined the convoy. The Defendant Enns joined the convoy in Manitoba on January 26, 2022. The Defendants personally paid for the expenses of many truckers because funds from GoFundMe were not released yet.

83. The Defendant Joe Janzen was also a road captain for Manitoba and joined the convoy on January 26, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

84. The Defendant Harold Jonker was a road captain for the Niagara region of Ontario. He personally organized a large group of truckers, including Trucker Class Defendants who operated at least ten other semi-tractor trucks owned by his company, the Defendant Jonker Trucking. The Defendant Jonker and the Trucker Class Defendants operating semi-tractor trucks owned by the Defendant Jonker Trucking congregated in Caistor Centre, Ontario, on or about January 26, 2022, and departed to join the convoy.

85. The Organizer Defendants planned, organized, encouraged and directed Trucker Class Defendants and other Freedom Convoy participants to occupy Ottawa streets continuously with their vehicles running 24 hours per day.

86. One of the main tactics planned by the Defendants, in support of their goal of forcing the federal government to capitulate to their demands, was for participants to make as much noise as possible when stationed in downtown Ottawa. To make that noise, the Organizer Defendants planned, organized, encouraged and directed Trucker Class Defendants and other Freedom Convoy participants to continuously blast the horns of their vehicles, as described further below.

SETTING UP IN OTTAWA AND CREATING THE OCCUPATION ZONE

87. Starting on or around Friday, January 28, 2022, Freedom Convoy vehicles started to arrive in Ottawa. These vehicles included semi-trailer trucks, semi-tractors with no trailers, passenger vehicles, and large recreational vehicles. This included some of the Trucker Class Defendants.

88. The Defendant Jonker was one of the first truck drivers to arrive in Ottawa on January 28, 2022, and parked his semi-tractor truck on Wellington Street, close to the Parliament Buildings.

89. When Freedom Convoy vehicles arrived in Ottawa, including some of the Trucker Class Defendants, as planned they congregated and began to block the streets around Parliament Hill and in the surrounding neighbourhoods. This was part of the Organizer Defendants' plan to "gridlock" downtown Ottawa.

90. The Defendant Garrah helped establish an operations centre in Ottawa to coordinate the Freedom Convoy activities. The Defendant Garrah paid for computers and other equipment and rented space and hotel rooms in the Swiss Hotel on Daly Avenue in Ottawa. When the Defendants Lich and Barber arrived in Ottawa, they became the key leadership figures at the Swiss Hotel operations centre.

91. The Defendant Garrah paid for the computers, equipment and Swiss Hotel space from funds raised from his Adopt-A-Trucker campaign on GiveSendGo. The Defendant Garrah also paid for portable toilets, barbecues, food, and a wide range of other supplies from the Adopt-a-Trucker funds.

92. The Defendant Chad Eros worked primarily out of the Swiss Hotel operations centre. He was responsible for managing funds and expenses, including large amounts of cash donations. The Defendant Eros directed other organizers to keep records of those donating cash and to provide him with that information so all receipts could be properly tracked.

93. The Defendant Daniel Bulford worked primarily out of the Swiss Hotel operations centre. He helped with the information technology and managed "security" for the Freedom Convoy. Among others, he communicated with law enforcement on behalf of the Freedom Convoy and would communicate security concerns or issues to the Freedom Convoy leaders and participants.

94. Several hundred vehicles remained camped out in Ottawa's downtown from January 28, 2022, until February 20, 2022, lined up bumper-to-bumper. The clusters of vehicles were predominantly concentrated on Sir John A. MacDonald Parkway, Wellington Street, Rideau Street, Kent Street, Bank Street, Metcalfe Street, Elgin Street, Laurier Avenue West, Laurier Avenue East, King Edward Avenue and Waller

Street. On some days, particularly on weekends, many other trucks and vehicles joined the Convoy occupation, with trucks blocking many other downtown Ottawa streets for days at a time.

95. The blockade rendered it impossible or almost impossible for other vehicles to pass through the downtown Ottawa core.

96. In furtherance of the common design of the Defendants, the trucks remained running all day and night, with other Freedom Convoy participants organizing the delivery of fuel in jerry cans, food, and other supplies to the drivers. The Organizer Defendants Tiessen, King, Mihilewicz, Enns, Janzen, LaFace, Belton and Bulford were responsible for organizing and coordinating the delivery of supplies to drivers.

97. These large vehicles remained idling 24 hours per day for the duration of the Freedom Convoy protest, emitting noxious diesel fumes, particulates and gases.

PLANNING AND LOGISTICS

98. In furtherance of their common design, the Organizer Defendants set up a staging area to stockpile fuel and other supplies for the occupying trucks, and to arrange and coordinate delivery of these supplies. For logistical reasons, the Organizer Defendants established the staging area outside of the Ottawa downtown core. The Organizer Defendants Bulford and Marazzo relied on their military and police skills and expertise to manage these logistics, which were designed to avoid, frustrate or thwart any effort by authorities to break the supply lines of fuel and food to the Trucker Class Defendants in the Occupation Zone.

99. The Freedom Convoy staging area was established by the Organizer Defendants in a parking lot at Raymond Chabot Grant Thornton Park, a baseball stadium at 300 Coventry Road. The location became a permanent encampment known as "Coventry". Diesel fuel deliveries were organized twice per day at Coventry, with the fuel later being ferried into the Occupation Zone to the idling semi-tractor trucks.

100. The Defendants Lich, Barber and King individually visited the Coventry staging location on a number of occasions to thank, encourage and inspire the individuals there who were managing the purchase, storage and delivery of fuel and food to Trucker Class Defendants in the Occupation Zone.

101. In furtherance of their common design, the Defendants established communication lines between each other and with other Freedom Convoy participants and supporters. The Organizer Defendants often communicated to the occupation participants through live stream videos on various social media channels, including Facebook, YouTube, Tiktok and Telegram. A “hot line” was created so truck drivers and other occupation participants could call with any immediate needs or concerns. The Defendants also communicated with each other through other applications such as Zello. The Organizer Defendants also communicated with each other through texts and group texts.

102. In furtherance of their common design, the Defendants Barber, Lich, Eros, Garrah, Dichter, and Bulford met daily at the operations centre in the Swiss Hotel to plan and discuss the strategy, funding, tactics and logistics of the ongoing occupation.

103. In furtherance of their common design, the Organizer Defendants also established a “war room” located closer to the centre of the Occupation Zone. The war room was set up at the Arc Hotel at 140 Slater Street. Freedom Convoy occupiers in need of food, lodging, or other supplies would contact the war room to request financial and logistical support. The Defendants Belton, Enns, Gasior, Janzen, Laface, Mihilewicz and Tiessen would often meet at or visit the war room in the Arc Hotel to learn updates about funding and other strategic issues. Other road captains and “street captains” would attend at the Arc Hotel to provide information and get updates.

104. The Defendant Marazzo maintained a large map of Ottawa at the Arc Hotel war room where he tracked and managed the placement and movement of trucks.

105. During the course of the Freedom Convoy occupation, and in furtherance of their common design, the Organizer Defendants ensured that, in addition to free diesel fuel, cash was distributed to the Trucker Class Defendants. Trucker Class Defendants received envelopes of cash collected by the Organizer Defendants. These envelopes would sometimes contain as much as \$500.

106. In furtherance of their common design, the Organizer Defendants held regular press conferences to communicate their message and to encourage truckers, including the Trucker Class Defendants, and others to continue their participation in and support for the occupation.

107. The Defendant Dichter organized many of the main news conferences and put out press releases. The Defendants Dichter, Barber and Lich held a press conference at the Swiss Hotel on January 30, 2022. Updates on the fundraising and other activities were discussed. The Defendant Dichter told the press conference that semi-trucks were “designed to be on the road...for an indefinite period of time”. Dichter added that the millions donated through GoFundMe would ensure that trucks would have a steady supply of fuel, and therefore could remain on the streets for a year or more.

108. The Defendant Lich spoke at many press conferences, including one at the Marriott Hotel on February 3, 2022, where she warned the people of Ottawa directly that the Convoy occupation would continue until the federal government ended all COVID-19 public health mandates and restrictions. The Defendant Bulford spoke at the same February 3 press conference, providing updates on the protest organization and fundraising efforts.

109. The Defendants Lich, Barber, Belton and Marazzo held a press conference on February 8, 2022. In addition to discussing fundraising and other logistical issues, the Defendant Marazzo suggested that the opposition political parties in the House of Commons and the Governor General of Canada should meet with the Defendants to discuss what’s best for Canada.

HORN TACTIC AND OTHER EXTREME NOISE

110. In furtherance of the common design of the Defendants, one of the main tactics employed by the Trucker Class Defendants and other Freedom Convoy participants was to make as much noise as possible to disturb individuals in Ottawa's downtown.

111. In furtherance of their common design, the Organizer Defendants planned, organized, encouraged and directed the Trucker Class Defendants and other Freedom Convoy participants to blast the horns on their vehicles, non-stop, for several hours every day.

112. The Defendants coordinated their horn-blasting tactic via social media channels, including Facebook and YouTube, and via the walkie-talkie application Zello.

113. As one example of this, on January 31, 2022, the Defendant King posted a YouTube video instructing all Freedom Convoy "truckers" to collectively honk for ten minutes straight every hour and half hour.

114. The Trucker Class Defendants would also sometimes get their directions on horn honking from captains who attended daily meetings at the "war room" in the Arc Hotel.

115. Initially, the honking schedule would last from approximately 7AM to 1AM. On or around February 1, 2022, the Defendants coordinated a new schedule for the honking from approximately 8AM to 11PM.

116. The Defendants celebrated the honking on social media to encourage participants to continue the horn honking tactic to disturb residents and others in downtown Ottawa.

117. The types of horns that were employed by the Trucker Class Defendants as part of the horn-blasting tactic included air horns and train horns, both of which are designed only to be used for safety warnings to those who are far away.

118. The Defendants were aware that the honking noise was extreme and could cause harm or distress. The Organizer Defendants purchased ear plugs in bulk and distributed them to protestors to protect themselves from the extreme sound levels of their horn tactic while it disturbed and caused harm to the plaintiff class members.

RAISING FUNDS TO ENCOURAGE AND SUPPORT CONVOY

119. The raising, collection and disbursement of funds to support the unlawful activities of the Freedom Convoy participants were one of the primary means by which the common design was effected by the Defendants. The Organizer Defendants raised and disbursed funds for the express purpose of supporting the indefinite truck blockade of public streets and roadways, the non-stop idling of trucks and associated air pollution, and the extreme and incessant horn honking in the Occupation Zone.

120. On or around January 14, 2022, the Organizer Defendants created a page for the Freedom Convoy on the crowdsourced fundraising website GoFundMe. The Defendant Lich is listed as the organizer of this GoFundMe page, and the Defendant Dichter is listed as a Team Member.

121. The Defendant Lich also received over \$500,000 in donations for the Freedom Convoy that were sent to her personally by e-transfer by over 3,000 people.

122. The Defendant Garrah created the Adopt-A-Trucker fundraiser on the GiveSendGo fundraising platform on or about January 25, 2022. The Defendant Garrah's Adopt-A-Trucker campaign raised over \$750,000 Canadian on GiveSendGo before it was disabled on or about February 13, 2022. A significant proportion of these funds were spent by the Defendant Garrah on hotel rooms, computers, equipment, fuel, food and other supplies.

123. The Organizer Defendants communicated to Freedom Convoy participants, including the Trucker Class Defendants, that they would raise money through GoFundMe and other means to pay for their expenses for as long as they stayed in Ottawa. The Organizer Defendants regularly communicated the amount of funds raised in order to encourage and incentivize Trucker Class Defendants to travel to Ottawa and to stay and occupy the city.

124. On or about January 30, 2022, the Defendants Garrah and Eros created the Defendant non-profit corporation Freedom 2022 Human Rights and Freedoms, in order to pool and spend the enormous sums that were being raised. By that date, over \$10-million had been raised on GoFundMe, the Adopt-A-Trucker GiveSendGo campaign, and personal donations to the Organizer Defendants.

125. On February 2, 2022, GoFundMe announced that it was monitoring the Defendants' fundraiser to ensure it complied with the company's "Terms of Service". One of GoFundMe's Terms of Service is that funds raised cannot be used for the implicit or explicit purpose of promoting or supporting the violation of any laws. GoFundMe asked the Defendant Lich for assurances that none of the funds would be distributed to anyone suspected of acting unlawfully.

126. On February 4, 2022, GoFundMe announced that it was immediately suspending the Freedom Convoy fundraiser, stating that it was in violation of the company's "Terms of Service". In a statement, GoFundMe said that "the previously peaceful demonstration has turned into an occupation".

127. A few hours after GoFundMe's statement on February 4, 2022, the Defendant Lich posted a video on Facebook saying the organizers would use a new fundraising platform, the Defendant GiveSendGo, to raise funds to support the convoy. She said that GiveSendGo would be used to get funds into the hands of truckers "quicker", and asked people to donate, saying "you can support the truckers that are on the ground here at the moment" and to "help us keep these truckers going". She added, "You know we plan to be here for the long haul."

128. By February 4, 2022, numerous news reports had been published and broadcast on the trucks blocking streets in Ottawa, the diesel fumes created by the trucks, and the disturbance caused by the constant horn honking. There were also numerous news stories that GoFundMe had suspended the Freedom Convoy fundraising campaign because of reports of unlawful activity by protesters. Television and online news stories on these subjects were broadcast and published nationally and internationally between January 29, 2022 and February 5, 2022 by news organizations such as CBC, the Ottawa Citizen, Fox News, CNN, the Toronto Star, the Winnipeg Free Press, the Washington Post, CTV News, Global News, the Western Standard, BBC, the Toronto Sun, the Calgary Sun, USA Today, the Globe and Mail, and many others.

129. The Defendant GiveSendGo has terms of service that provide that the platform cannot be used to raise funds that encourage, promote, facilitate or instruct others to engage in illegal activities. Despite the widespread news reports of illegal activities by participants in the Freedom Convoy in Ottawa, and the fact that GoFundMe suspended its Freedom Convoy campaign due to illegal activities, the Defendant GiveSendGo agreed on or about February 4, 2022, to host a Freedom Convoy fundraising campaign. In doing so, the Defendant GiveSendGo encouraged and supported the tortious activities of the other Defendants and furthered their common design. As such, the Defendant GiveSendGo is a joint tortfeasor with the other Defendants and is jointly and severally liable for the damages caused.

130. Any person who donated funds to the Freedom Convoy protest on or after February 4, 2022, through the Defendant GiveSendGo or by other means, knew or ought to have known about the tortious activities of the Trucker Class Defendants. Persons who donated funds to the Freedom Convoy on or after February 4, 2022, did so expressly to provide support to the Trucker Class Defendants so they could continue with their activities of blocking the streets of Ottawa, idling their trucks, and blaring their horns.

131. The Defendants GiveSendGo and Jacob Wells were informed by the Defendants Barber, Lich and Eros that the Defendant Freedom 2022 was encountering difficulties in opening a bank account. The Defendant Wells agreed to personally assist the Defendants Freedom 2022, Lich, Barber and Eros by opening an “interim” bank account and to hold the funds raised on GiveSendGo in trust for the benefit of the Defendant Freedom 2022.

132. The Defendants Wells, Freedom 2022, Lich and Eros signed an agreement on February 9, 2022, that provided that the Defendant Wells would hold funds raised for the Freedom Convoy in trust until the Defendants Freedom 2022, Lich and Eros could find a Canadian bank that would agree to open an account. In doing so, the Defendant Wells encouraged and supported the tortious activities of the other Defendants and furthered their common design. As such, the Defendant Wells is a joint tortfeasor with the other Defendants and is jointly and severally liable for the damages caused.

133. The Organizer Defendants provided regular updates on the funds raised on GiveSendGo. By the time the Freedom Convoy 2022 GiveSendGo fundraiser was suspended on February 13, 2022, it had raised over \$12-million Canadian. This emboldened and incited the Trucker Class Defendants to continue with their tortious behaviour described herein.

134. The Defendants St. Louis and Dichter established a Bitcoin fundraiser, called “HonkHonkHodl”, on or about February 9, 2022 to raise funds to reimburse the Trucker Class Defendants for expenses, food, fuel, and repairs and to encourage them to remain in Ottawa and continue their tortious behaviour for as long as possible.

135. The Defendants St. Louis and Dichter held a press conference that streamed on Facebook on or about February 9, 2022. They explained that the goal of the Bitcoin fundraiser was to “receive global donations without obstruction” and to provide an “endowment” to reward Trucker Class Defendants for their participation in the

protest. The Defendant St. Louis told potential Bitcoin donors that the protest was “an endurance game” .

136. The “HonkHonkHodl” Bitcoin fundraiser raised over 220 Bitcoin units, worth approximately \$1,750,000 at the time.

137. On or about February 15, 2022, the Defendant St. Louis personally distributed envelopes to Trucker Class Defendants with Bitcoin wallet passwords that gave access to approximately \$1,000 in Bitcoin, according to Bitcoin values at the time.

138. The Defendant King established a cryptocurrency token on or about February 11, 2022 to raise funds to reimburse the Trucker Defendants for expenses, food, fuel, and repairs to encourage them to remain in Ottawa and continue their unlawful activities and tortious behaviour.

139. The Organizer Defendants decided to raise funds through Bitcoin and other cryptocurrencies because they were aware that the ongoing activities of the protest were illegal and were concerned that money donations could be subject to seizure by law enforcement, governments, or banks concerned with facilitating illegal activities.

140. The Donor Class Defendants are those persons who contributed funds to the Freedom Convoy through various means with knowledge that the Freedom Convoy participants were engaging in the tortious and other unlawful behaviour described herein, and with the intention of supporting and facilitating these acts with those financial donations.

141. Many Donor Class Defendants who contributed money to the GiveSendGo fundraiser added comments such as “keep up the good fight”, “honk honk”, “the honking will continue until freedom improves”, and so on.

142. The Donor Class Defendants encouraged and incited the ongoing tortious behaviour of the Trucker Class Defendants by donating funds to the cause, through GiveSendGo or other means, on or after February 4, 2022. By knowingly assisting or

encouraging the Trucker Class Defendants to commit the tortious behaviour described herein, the Donor Class Defendants furthered the common design of the other Defendants, and are joint tortfeasors and jointly and severally liable for the damages caused.

DEFENDANTS' CONDUCT WAS UNLAWFUL

143. The blasting of horns by the Trucker Defendants was prohibited by sections 2, 3 and 15 of the City of Ottawa Noise By-Law, By-Law No. 2017-255.

144. Section 2 of By-Law No. 2017-255 states that no person shall cause or permit any bass noise, unusual noise or noise likely to disturb the inhabitants of the City. Section 3 of By-Law No. 2017-255 states that no person shall cause or permit the ringing of any bell, sounding of any horn, or shouting in a manner likely to disturb the inhabitants of the City. Section 15 of By-Law No. 2017-255 states that no person shall cause or permit unnecessary motor vehicle noise such as the sounding of the horn.

145. The Defendants' horn-blasting tactic also violated subsection 75(4) of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, which prohibits unnecessary noise. Pursuant to subsection 75(4), a person having control or charge of a motor vehicle is prohibited from sounding any bell, horn or other signalling device so as to make an unreasonable noise, and is also prohibited from causing a motor vehicle to make unnecessary noise.

146. The level of noise emitted by the Trucker Defendants also exceeded the noise levels that would be permitted in a workplace setting, contrary to the *Canada Occupational Health and Safety Regulations*, SOR/86-304 issued pursuant to the *Canada Labour Code*, RSC, 1985 c. L-2, and the *Ontario Noise Regulation* 381/15 issued pursuant to the *Occupational Health and Safety Act*, RSO 1990, c. 01.

147. The Defendants' horn-blasting also constitutes conduct that violates the *Criminal Code of Canada*, RSC 1985, c C-46 pursuant to sections 175(1)(d) (Cause Disturbance), 180(1)(s) (Common Nuisance), 266 (Assault), and 430(1)(d)(Mischief).

148. Exposure to loud noise for a prolonged period of time and sleep deprivation are both techniques that have been found to constitute torture, and are considered to be cruel, inhumane and degrading treatment under international law.

149. The Defendants' conduct of idling vehicles and blocking roads was unlawful, violating the following By-Laws of the City of Ottawa: Use and Care of Roads By-law 2003-498; Idling Control By-Law 2007-266; and Encroachment By-Law 2003-446.

150. The Defendants' conduct with respect to the continuous idling of vehicles and emission of noxious diesel fumes also constitutes a violation of section 75(4) of the *Highway Traffic Act*. Under this section, a driver of a motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle.

151. The Defendants' conduct in blocking public roads and streets without a permit is in violation of City of Ottawa By-laws. While blocking roads and streets may be exempt from By-laws as a protected activity where doing so is in the course of exercising the freedoms of peaceful assembly, association and expression under sections 2(b), (c) and (d) of the *Canadian Charter of Rights and Freedoms*, extended blocking of traffic over a prolonged period in a serious and sustained manner is unreasonable and unjustifiable, particularly when it is accompanied by tactics and behaviour that are not peaceful, such as extremely loud noise meant to cause harm.

INJUNCTION ORDERS

152. The within action was commenced on February 4, 2022, by the Plaintiff Li. On that same date, she applied to the Ontario Superior Court of Justice for an interim injunction to enjoin and restrain the use of air horns or train horns in the vicinity of downtown Ottawa. The Defendants Barber, Lich, Dichter and Bulford opposed the motion, and proposed that the Trucker Class Defendants could agree to a revised schedule of coordinated honking.

153. On February 7, 2022, the Honourable Mr Justice Maclean granted the interim injunction, enjoining and restraining anyone with notice of the court order from the use of air horns or train horns in the vicinity of downtown Ottawa, for a period of 10 days. The interim injunction order included a term directing the Defendants Barber, Lich and Dichter to communicate the terms of the order through their social media and other channels to all persons who had been participating in the Freedom Convoy protest in Ottawa.

154. The Defendants Barber, Lich and Dichter did not communicate the terms of the interim injunction through any of their social media channels, despite being very active on Facebook, Twitter, and TikTok. The Defendants Barber, Lich and Dichter purposely failed to comply with Justice Maclean's order of February 7, 2022.

155. The Defendant Barber mentioned the injunction in a TikTok video that he posted on February 9, 2022. In the video, the Defendant Barber says there is "an order in place to keep the horns down", but he then advises truckers that if they see police they should lock door and "grab that horn switch and don't let go." He also said, "Let that fucking horn go no matter what time it is and let it roll as long as possible."

156. The Defendant King was aware of the injunction order. On February 7, 2022, shortly after Justice Maclean orally issued the order, the Defendant King broadcast on Facebook Live expressing that truckers should stop blowing their horns because of the court order. He insisted that truckers maintain "silence on the horns" for the duration of the order, and then said while laughing, "Remember, these people haven't been able to sleep for ten days."

157. On February 8, 2022, the Defendant King broadcast again on Facebook Live informing his supporters that they shouldn't respect the court ordered injunction on honking after all. "Blow those horns," he counselled his trucker supporters in Ottawa. "Let them fire as loud as you can," he added.

158. On February 16, 2022, the Honourable Justice Maclean affirmed the honking injunction in an interlocutory order for a further 60 days, with the same terms. The Defendants Barber, Lich and Dichter again opposed the granting of this order.

159. The interlocutory injunction order of February 16, 2022, again included a term directing the Defendants Barber, Lich and Dichter to communicate the terms of the order through their social media and other channels to all persons who have been participating in the Freedom Convoy protest in Ottawa.

160. Again, the Defendants Barber, Lich and Dichter failed to comply with Justice Maclean's order of February 16, 2022, and made no effort to communicate the terms of the order through their social media channels.

161. The Trucker Class Defendants significantly reduced their use of air horns and train horns in downtown Ottawa after February 7, 2022. However, many Trucker Class Defendants regularly violated the horn injunctions by blasting their horns, usually in conjunction with others. These individuals did so in contempt of Justice Maclean's orders.

162. The City of Ottawa obtained its own injunction order from Associate Chief Justice McWatt of the Ontario Superior Court of Justice on February 14, 2022, pursuant to section 440 of the *Municipal Act*. The City's injunction order included terms enjoining and restraining anyone with notice of the order from honking horns, idling vehicles or blocking streets. Many of the Trucker Class Defendants did not comply with the City's injunction order and were in contempt.

DECLARATIONS OF EMERGENCY AND END OF OCCUPATION

163. Given the ongoing harm to residents, businesses and employees in downtown Ottawa caused by the unlawful behaviour of the Trucker Class Defendants, the Mayor of Ottawa issued a formal state of emergency on February 6, 2022, citing the "serious

danger and threat to the safety and security of residents posed by ongoing demonstrations”.

164. Given the ongoing harm to residents, businesses and employees in downtown Ottawa caused by the unlawful behaviour of the Trucker Class Defendants, the Premier of Ontario issued a declaration of emergency on February 10, 2022, under the *Emergency Management and Civil Protection Act*, stating that the interference with streets and roads “constitutes a danger of major proportions that could result in serious harm to persons and substantial damage to property”.

165. On February 10, 2022, the Ontario Ministry of the Attorney General obtained a restraint order from the Ontario Superior Court of Justice under the *Criminal Code* targeting the Freedom Convoy and Adopt-A-Trucker GiveSendGo fundraising campaigns. Ontario argued that the funds were being used to facilitate criminal mischief.

166. The emergency declarations by the Mayor of Ottawa and the Premier of Ontario did not curtail the tortious behaviour of the Trucker Class Defendants and Organizer Defendants, nor did they deter Donor Class Defendants from continuing to make donations to support the ongoing Freedom Convoy protests in Ottawa.

167. Given the ongoing harm to the residents, business and workers of Ottawa, the Prime Minister of Canada declared the Freedom Convoy protest a “public order emergency” under the *Emergencies Act* on February 14, 2022. The Order in Council identified the “continuing blockades by both persons and motor vehicles” and the increase risk of unrest and violence that would threaten the safety and security of Canadians. The Prime Minister referred to the protest as an “illegal occupation” and called for the participants to leave the City of Ottawa and go home.

168. On February 15, 2022, the Government of Canada issued the *Emergency Measures Regulations*, SOR/2022-21, rendering it an offence to participate in a public assembly that is reasonably expected to lead to a serious disruption of the movement

of persons or goods. The Regulations also made it an offence to directly or indirectly collect, use or provide any funds or other property to facilitate the participation in a prohibited assembly.

169. The vast majority of Trucker Class Defendants did not depart Ottawa following the issuance of the Emergency Measures Regulations. The Defendants Barber, Lich, Dichter, King and others strongly encouraged Trucker Class Defendants to defy the Emergency Measures Regulations and to stay in Ottawa. Many of the Organizer Defendants also continued to coordinate the provision and delivery of fuel and other supplies to Trucker Class Defendants in order to facilitate their continued participation in the prohibited assembly in downtown Ottawa.

170. On February 17 and 18, 2022, the Defendants Lich, Barber and King were all arrested by police and charged with *Criminal Code* offences, including mischief, counselling mischief, intimidation and counselling disobeying a court order.

171. As the Defendant Lich was being arrested by Ottawa Police on February 17, 2022, she yelled, "Hold the line", knowing that she was being video recorded and her words would be conveyed to Trucker Class Defendants still occupying downtown Ottawa. That video was broadcast on social media and served to encourage Trucker Class Defendants to remain on Ottawa streets.

172. On February 19 and 20, 2022, a coordinated police operation involving over 1,000 police officers from across Canada moved through the Occupation Zone and dispersed the remaining Trucker Class Defendants and other protesters.

173. Over 4,000 by-law tickets and provincial offences were issued to Freedom Convoy participants during the Freedom Convoy occupation.

IMPACT ON RESIDENT CLASS

174. When walking within 50 feet of the semi-tractors blasting their air horns, the sound pressure decibel level is between 100 and 105 constantly. When the train horns on the semi-tractors are blasted, the decibel level increases to 120 to 125.

175. For individuals who live in residences beside the streets where the horns are blasting, the sound within the home is approximately 80 to 85 decibels.

176. The normal sound in a home is 35 to 40 decibels. A normal conversation is 55 to 65 decibels. A lawn mower can be 88 to 94 decibels. Sleep is best at 30 decibels or below and there can be significant interference with sleep when sound level decibels exceed 45.

177. Each 10 decibel increase in sound level equates to a doubling of the sound in the listener's perception. An increase of 20 decibels is a fourfold increase.

178. Hearing damage can occur at 90 decibel sound pressure level where the exposure is over 30 minutes. At 100 decibels, sound pressure can cause hearing damage in about 15 minutes. At 120 decibel sound pressure and above, hearing damage can occur in a matter of seconds.

179. Prolonged exposure to sound levels of 70 decibels and above can cause psychological distress and interfere with psychological integrity. Prolonged exposure to high sound levels has been used as a method of torture.

180. The truck horns caused moral and psychological harm to the Resident Class Members. The horns substantially interfered with the private use and enjoyment of their homes. With horns ending as late as 1am, and no earlier than 11pm, Resident Class Members experienced significant sleep disturbances. Some Resident Class Members experienced temporary and even permanent damage to their hearing, with some experiencing tinnitus long after the Freedom Convoy protest ended.

181. Resident Class Members leaving their homes for work, school, groceries, medical appointments or necessities experienced significantly elevated sound exposure on the street. Some Resident Class Members avoided going out as much as possible and felt they were prisoners in their own homes. Others were forced to leave their homes and find alternate accommodation outside the Occupation Zone. The Resident Class Members were living in daily torment caused by the incessant blasting of truck horns.

182. Resident Class Members were impeded from leaving their homes due to gridlock on their streets caused by the Convoy occupation vehicles. This caused Resident Class Members to miss or be late for work, school and appointments.

183. Resident Class Members also experienced significant difficulty from the diesel fumes of the congregated semi-trucks. There were approximately 300 to 500 semi-trucks in the Occupation Zone at any time, idling their engines and emitting diesel fumes that negatively impacted the health and well-being of the Resident Class Members.

IMPACT ON BUSINESS CLASS

184. Businesses located in the Occupation Zone suffered significant income losses due to the public nuisance created by the Defendants.

185. As a result of the blocked roads, loud and constant noise, and emission of diesel fumes, many businesses within the Occupation Zone were forced to close.

186. Businesses located in the Occupation Zone that remained open during the Convoy occupation experienced a loss of revenue as a result of customers and clients avoiding the public nuisance of the Occupation Zone.

IMPACT ON EMPLOYEE CLASS

187. Individuals employed by businesses located or doing business in in the Occupation Zone suffered significant income losses due to the public nuisance created by the Defendants.

188. As a result of the blocked roads, loud and constant noise, and emission of diesel fumes, many businesses within the Occupation Zone were forced to close or impeded from carrying out normal business operations. While some businesses remained open, those businesses experienced fewer customers or clients.

189. Employee Class Members were unable to work as a result of the Defendants' conduct creating a public nuisance in the Occupation Zone. This resulted in cancelled shifts or reduced hours, causing income losses for Employee Class Members.

PERSONAL EXPERIENCE OF PLAINTIFF LI

190. The Plaintiff Li, a resident of the Centretown neighbourhood in the heart of downtown Ottawa, suffered mental distress, suffering and torment as a result of the persistent and loud honking from several large trucks positioned outside her residence from Friday, January 28, 2022, to Sunday February 20, 2022.

191. While some of the honking sounds were from regular sized motor vehicle horns, the loudest and most persistent honks came from large semi-trucks. Some of these trucks are equipped with air horns that emit loud honking noises typical of vehicles of their size. A number of the trucks were equipped with horns that are similar in tone and volume to train horns.

192. From within her condo unit, the Plaintiff Li could hear the sound of honking horns at regular and frequent intervals from morning to night, sometimes as late as 1:30 am. With the exception of short periods of reprieve late in the night, the Plaintiff felt as if the sound was nearly constant. The honking horns were frequently

accompanied by loud music, sounds of shouting and fireworks. The combination of these sounds made the Plaintiff feel as though she was living in a war zone.

193. The honking horns, in particular, interfered with the sense of peace, safety and serenity which the Plaintiff Li previously enjoyed in her home. During the brief periods when the sound of honking horns subsided, the Plaintiff was unable to enjoy the relative quiet because she became riddled with anxious anticipation for the moment it would start up again. The Plaintiff Li found this anxious anticipation almost as unbearable as the sounds of the horns themselves.

194. The Plaintiff Li was unable to enjoy a restful night's sleep during the Freedom Convoy's occupation of her neighbourhood. The only way the Plaintiff Li could fall asleep and temporarily escape the noise was by playing music on external speakers at 70-80% volume and then inserting noise-cancelling earphones or earplugs into her ears.

195. The Plaintiff Li was fearful to venture outside. During the Freedom Convoy occupation, she would not leave her residence without first inserting noise-cancelling headphones into her ears. Even with those devices in her ears, the Plaintiff could still hear the sounds of the honking horns very clearly. The sound was so loud that she could physically feel vibrations inside her ears.

196. When the Plaintiff Li ventured outside, she was often subjected to heckling by members of the Freedom Convoy, yelling at her to remove the mask she wore to protect herself and others from contracting COVID-19. When she ignored the heckles, members of the Convoy would respond by honking their truck horns to startle her. This would cause the Plaintiff Li to flinch, to which the hecklers would cheer loudly.

197. The Plaintiff Li contacted the Ottawa Police Service on at least 14 occasions to complain about the noise and the distress the honking was causing her. The police dispatch told her nothing could be done, or that there were officers on the ground who would address the issue. Until the final weekend of the Freedom Convoy occupation, the Plaintiff Li never witnessed any meaningful action by the Ottawa

Police to curtail the behaviour of the Freedom Convoy participants. The sense that police are impotent to enforce law and order contributed to the Plaintiff Li's fear and anxiety.

EXPERIENCE OF THE PLAINTIFF UNION: LOCAL 613

198. The representative Plaintiff, 7983794 Canada Inc., is a company incorporated pursuant to the *Canada Business Corporations Act*, RSC 1985, c C-44 operating under the name Union: Local 613 ("Union: Local 613").

199. Ivan Gedz is the majority owner of Union: Local 613, a restaurant located at 315 Somerset Street West in the City of Ottawa within the area of the city most affected by the Freedom Convoy.

200. The impacts of the global COVID-19 pandemic, and the public health measures implemented to address it, have been profound for many in the restaurant industry. From January 5, 2022, to January 31, 2022, Union Local 613 was closed to in-person diners in accordance with Provincial public health regulations.

201. On January 31, 2022, Mr. Gedz re-opened the restaurant to in-person diners at 50% capacity, as permitted by law.

202. When the Freedom Convoy arrived in Ottawa on January 28, 2022 and began its protest activities in the Occupation Zone, Mr. Gedz was concerned for the health and safety of his employees as well as the implications for his business.

203. While the Plaintiff Union: Local 613 opened to in-person diners on January 31, 2022, the impacts on the business were profound. The Plaintiff Union: Local 613's revenues decreased by between 25% and 50% of what would have been expected during that period, taking into account Provincial regulations limiting in-person dining to 50% capacity.

204. Since reopening, Plaintiff Union: Local 613 would receive reservations throughout the week and would become fully booked with weekend reservations. However, most if not all these reservations made in the course of the week would be cancelled as the Freedom Convoy occupation continued.

205. There are a number of ways in which the presence of the Freedom Convoy had a negative impact on the Plaintiff Union: Local 613's business. The noise from the persistent honking of horns, particularly on weekends, could be heard inside the restaurant. Diners looking for a quiet, peaceful dining experience were deterred from attending restaurants in the Occupation Zone. At times, vehicles participating in the Freedom Convoy paraded down Somerset Street West, passing by Union: Local 613 while honking their horns. This created an unwelcoming atmosphere for prospective diners.

206. The two parking lots most proximate to the Plaintiff Union: Local 613 on the north and south sides of Somerset Street West between O'Connor Street and Bank Street were fully occupied all night by Freedom Convoy vehicles, making it difficult for diners to park their cars near the restaurant. Surrounding streets towards Parliament Hill were also completely blocked.

207. More generally, the presence of so many trucks in the Occupation Zone deterred prospective diners from surrounding communities from attending the area. The general atmosphere of chaos and lawlessness in the downtown core had people avoiding the area.

EXPERIENCE OF THE PLAINTIFF HAPPY GOAT COFFEE COMPANY

208. The representative Plaintiff Happy Goat Coffee Company Inc. is a company incorporated pursuant to the *Canada Business Corporations Act*, RSC 1985, c C-44. ("Happy Goat"). The Plaintiff Happy Goat is an Ottawa business that purchases direct

trade coffee, roasts the beans locally, and operates several café and coffee kiosk locations in and around Ottawa.

209. The Plaintiff Happy Goat operates a café at 229 Rideau Street, which is located in the Occupation Zone. Six workers are employed at that location. On Friday, January 28, 2022, large commercial trucks with the Freedom Convoy began converging on Ottawa. One of the main routes the trucks followed to enter downtown Ottawa was along Rideau Street, passing directly in front of this Happy Goat location. The trucks were loud and regularly blasted their air horns. By the evening, the trucks had blockaded Rideau Street.

210. Given the regularly blasting horns, the blockaded street, and the diesel fumes, the Happy Goat owners decided to close the Rideau Street café out of concern for the safety of employees. Unfortunately, Happy Goat was forced to lay off the employees for the duration of the protest.

211. Prior to closing the Rideau Street location, the Plaintiff Happy Goat expected \$600 to \$700 revenue per day, or approximately \$300 profit. Rideau Street has remained blocked by trucks throughout the Freedom Convoy occupation and the café at this location did not re-open until February 22, 2022.

212. The Plaintiff Happy Goat also operates a coffee kiosk at the Rideau Station on the O-Train Confederation Line under the Rideau Centre mall. This is within the Occupation Zone, and four workers are employed at this location. The Rideau Centre is at the corner of Rideau Street and Sussex Drive, which is close to some of the main Freedom Convoy activities. There were trucks and other blockages in the road, loud honking, and diesel fumes emitting from the trucks that remained idling all day and night.

213. On Saturday, January 29, 2021, the Rideau Centre decided to close the mall because of safety concerns associated with the Freedom Convoy encampment outside its doors. The Happy Goat kiosk also closed that same day.

214. Prior to closing the Rideau Station coffee kiosk, the Plaintiff Happy Goat expected \$400 to \$600 in revenue per day, or approximately \$250 in profit. Rideau Street remained blocked by trucks throughout the Freedom Convoy occupation and the kiosk at this location did not re-open until February 22, 2022.

215. On Saturday, January 29, 2021, the National Gallery of Canada decided to close the gallery because of concerns associated with the Freedom Convoy vehicles in the vicinity. The Happy Goat café in the Gallery closed the same day.

216. Prior to closing the National Gallery café, the Plaintiff Happy Goat expected \$1,200 in revenue per day, and approximately \$400 in profit. Streets close to the National Gallery remained blocked by trucks throughout the Freedom Convoy occupation and the café at this location did not re-open until February 22, 2022.

PERSONAL EXPERIENCE OF GEOFFREY DEVANEY

217. The Plaintiff Devaney is employed full-time as a server at a restaurant located in the Byward Market. He has been employed at the same restaurant in various capacities for over five years.

218. The Plaintiff Devaney is compensated on the basis of an hourly wage plus tips. On a typical shift, tips account for approximately one half of his income.

219. Following a period of closure to in-person dining due to Provincial regulations, the restaurant re-opened on January 31, 2022. However, it quickly became apparent to the Plaintiff Devaney and the restaurant's management, that the enthusiastic return of in-person diners they had seen following previous periods of lockdown, was not materializing due to the presence of the Freedom Convoy in downtown Ottawa.

220. So few people were attending the restaurant that management made the decision to significantly reduce employees' scheduled shifts. There were not enough diners attending the restaurant to justify a full staffing complement.

221. The Plaintiff Devaney's shifts were cut by one half to two thirds. When he did work, he earned his regular wages but his income derived from tips was considerably reduced due to how few diners were attending the restaurant.

222. For example, on the Saturday before Valentine's Day, typically a busy day in the restaurant industry, the Plaintiff Devaney would typically serve 20-30 patrons in the course of his shift. On Saturday February 12, 2022, he served only two diners.

223. While at work, the Plaintiff Devaney and his co-workers had to endure the sounds of the Freedom Convoy horns which could be heard from within the restaurant. This created an unwelcoming environment for customers, many of whom cancelled their reservations. In the 48 hours which preceded Valentine's Day, 40 customers cancelled their reservations for that ordinarily busy evening. This is the most significant mass cancellation the Plaintiff Devaney has seen in his time working at the restaurant.

PRIVATE NUISANCE

224. The incessant blaring of the high decibel air horns and train horns substantially interfered with the private use and enjoyment of the Resident Class Members' homes and caused serious physical and psychological harm. The conduct was totally unreasonable and unjustified.

225. The diesel fumes caused by hundreds of trucks idling 24 hours per day, congregated close together near residential homes and buildings, substantially interfered with the private use and enjoyment of the Resident Class Members' homes and caused serious physical and psychological harm, particularly for those with disabilities or who are vulnerable with pre-existing respiratory illnesses. The conduct is totally unreasonable and unjustified.

226. The activities described above, alone and in combination, constitute a private nuisance perpetrated on the Resident Class Members. The Organizer Defendants planned, encouraged, facilitated, supported, promoted and directed these activities amounting to private nuisance to be performed by the Trucker Class Defendants and other participants in the Freedom Convoy occupation. The Organizer Defendants' assistance and support for the tortious behaviour was substantial, including the planning of the tactics, providing the logistics and coordination, and raising and distributing funds for the express purpose of the continuation of the occupation of Ottawa and the related tortious behaviour.

227. The Donor Class Defendants encouraged and supported the tortious activities by donating funds, which not only directly paid for supplies and materials, but incentivized the Trucker Class Defendants to remain in Ottawa and continue their activities for as long as possible. By doing so, the Donor Class Defendants participated in and materially contributed to the nuisance and related tortious behaviour.

228. The Organizer Defendants, Trucker Class Defendants and Donor Class Defendants carried out the tortious private nuisance activities in concert with the common intention of causing discomfort, distress and harm to the Resident Class Members in order to pressure, compel and coerce the Government of Canada and other levels of government to meet their demands of withdrawing all COVID-19 public health measures and restrictions. The Defendants are all jointly and severally liable for the damages caused by the private nuisance carried out by any of them in furtherance of a common design.

PUBLIC NUISANCE

229. From January 28, 2022, to February 20, 2022, the Freedom Convoy occupiers, including the Trucker Class Defendants, engaged in activities in the Occupation Zone that constituted a serious attack on the public's right to live their lives unaffected by substantial interference with their own daily activities and access to public streets.

The activities described below unreasonably interfered with the public's interest in health, safety, comfort and convenience, and amount to a public nuisance.

230. The Trucker Class Defendants and other Freedom Convoy participants blocked several downtown Ottawa public streets indefinitely with large trucks and other vehicles, rendering the streets impassable. The blockade substantially interfered with people going to work, school, or appointments, and made it difficult for emergency vehicles to attend those in need. The serious, sustained and prolonged manner of the blockade of public streets is unreasonable and is not an activity protected by the *Canadian Charter of Rights and Freedoms*.

231. The incessant blaring of the high decibel air horns and train horns in downtown Ottawa unreasonably interfered with the health, safety, and comfort of all plaintiff Class members and the public at large.

232. The diesel fumes caused by hundreds of trucks idling 24 hours per day, congregated close together on public streets in downtown Ottawa, unreasonably interfered with the health, safety, and comfort of all plaintiff Class members and the public at large.

233. The activities described above, alone and in combination, constitute a public nuisance perpetrated on the Resident Class Members, the Business Class Members and the Employee Class Members. The Organizer Defendants planned, encouraged, facilitated, supported, promoted and directed these activities amounting to public nuisance to be performed by the Trucker Defendants and other participants in the Freedom Convoy occupation. The Organizer Defendants' assistance and support for the tortious behaviour was substantial, including the planning of the tactics, providing the logistics and coordination, and raising and distributing funds for the express purpose of the continuation of the occupation of Ottawa and the related tortious behaviour.

234. The Donor Class Defendants encouraged and supported the tortious activities by donating funds, which not only directly paid for supplies and materials, but incentivized the Trucker Class Defendants to remain in Ottawa for as long as possible. By doing so, the Donor Class Defendants participated in and materially contributed to the nuisance.

235. The Organizer Defendants, the Trucker Defendants and the Donor Class Defendants carried out the tortious public nuisance activities in concert with the common intention of causing discomfort, distress and harm to the Class members in order to pressure, compel and coerce the Government of Canada and other levels of government to meet their demands of withdrawing all COVID-19 public health measures and restrictions. The Defendants are all jointly and severally liable for the damages caused by the public nuisance carried out by any of them in furtherance of a common design.

DAMAGES SUFFERED BY RESIDENT CLASS MEMBERS

236. As a consequence of the private nuisance and public nuisance by the Defendants, Resident Class Members suffered injury and damages including:

- (a) emotional and mental distress;
- (b) difficulty concentrating;
- (c) interference with quiet enjoyment of home;
- (d) interference with rights of access to public streets and sidewalks;
- (e) headaches;
- (f) tinnitus, hearing damage and hearing loss;
- (g) breathing and respiratory issues; and
- (h) difficulty sleeping.

237. The estimated damages per Resident Class Member is \$400 per day of the continued use of the unlawful horn tactic and/or exposure to diesel fumes from the idling semi-tractor trucks. Some Resident Class Members required medical treatment

due to the tortious activities and suffered greater damages in an amount to be specified at a future date.

238. Some Class Members have incurred special damages for the cost of alternate accommodations, ear plugs, and alternate transportation in an amount to be specified at a future date.

DAMAGES SUFFERED BY BUSINESS CLASS MEMBERS

239. As a consequence of the public nuisance by the Defendants, the Business Class Members suffered loss of revenues and income. Customers and clients were deterred by the loud horns and diesel fumes, and the streets and roadways impeded access. Some Business Class Members had to close entirely because of their proximity to the parked trucks. For Business Class Members that remained open or partially open, they experienced significantly reduced revenues.

DAMAGES SUFFERED BY EMPLOYEE CLASS MEMBERS

240. As a consequence of the public nuisance by the Defendants, many businesses in the Occupation Zone closed entirely or reduced their hours of operation and staff requirements. The Employee Class Members were laid off or experienced reduced hours of work. The Employee Class Members experienced damages in the form of loss of wages.

PUNITIVE DAMAGES

241. The Defendants deliberately planned and coordinated tactics to block all the streets and roadways around Parliament Hill and the surrounding neighbourhoods, and to make as much noise and air pollution as possible to cause discomfort and distress for all Class Members in order to coerce the governments to comply with their demands. The non-stop blaring horns and diesel fumes caused the Resident Class Members unbearable torment in the sanctity of their own homes and neighbourhoods.

The Defendants were at all times aware or ought to have been aware that these tactics could cause permanent physical damage and psychological harm. The Defendants acted with wanton disregard towards the residents, businesses and workers in the Occupation Zone.

242. This high-handed and callous conduct of the Defendants warrants the condemnation of this Honourable Court. Canada is a free and democratic society with a long tradition of peaceful protest and assemblies. The Defendants have abused those freedoms to cause serious harm to others, innocent bystanders to the Defendants' pursuit of their misguided political goals.

243. The Plaintiff proposes that this action be tried at the City of Ottawa, Ontario.

244. This statement of claim may be served outside of Ontario in accordance with Rules 17.02(g) and 17.04(1) of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, on the grounds that the torts were committed in Ontario.

Dated this 4th day of February, 2022.

Fresh as Amended Claim issued 18th day of February, 2022.

Further Fresh as Amended Claim issued 14th day of March, 2023.

Amended this 14th, day
of March 2023 pursuant
to Rule 26.02(c)

Decision of Justice MacLeod
dated March 13th, 2023

[Redacted signature block]

CHAMP & ASSOCIATES
Barristers and Solicitors

[Redacted address block]

Per: Paul Champ
LSO: 45305K

[Redacted signature block]

[Redacted signature block]

Court File No. CV-22-00088514-00CP

ZEXI LI et al.

- and -

CHRIS BARBER et al.

Plaintiffs

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

FURTHER FRESH AS AMENDED STATEMENT OF CLAIM
(Claim originally issued on February 4, 2022,
as amended February 18, 2022 and
March 14, 2023)

CHAMP & ASSOCIATES



Per: Paul Champ

LSO#: 45305K



Solicitors for the Plaintiff

This is Exhibit "B" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]

A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
7983794 CANADA INC., (c.o.b. as UNION: LOCAL 613)
and GEOFFREY DEVANEY**

Plaintiffs

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN,
JASON LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODY CARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC, JACOB
WELLS, HAROLD JONKER, JONKER TRUCKING INC., and BRAD HOWLAND**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF DEFENCE
(of the defendants GiveSendGo LLC, Jacob Wells, Benjamin Dichter, Chris Garrah,
Brigitte Belton, and Nicholas St. Louis)**

1. Except as expressly admitted herein, the defendants, GiveSendGo LLC (“GiveSendGo”), Jacob Wells (“Wells”) (GiveSendGo and Wells rereferred to collectively as the “GiveSendGo Defendants”), Benjamin Dichter (“Dichter”), Chris Garrah (“Garrah”), Brigitte Belton (“Belton”), and Nicholas St. Louis (“St. Louis”) (Dichter, Garrah, Belton and St. Louis rereferred to collectively as the “Individual Defendants”) deny all allegations and claims contained in the Further Fresh as Amended Statement of Claim (the “Claim”) and put the plaintiffs to the strict proof thereof.

Overview

2. This action concerns a political protest that occurred in Ottawa in January and February 2022 (the “**Protest**”). Like virtually all political demonstrations, the Protest was made up of different individuals and groups with diverse motives. No individual protestors or small group of individual protestors had the power to materially affect the course or duration of the Protest once it started. While some specific individuals may have engaged in unlawful activity over the course of the Protest, the majority of the protestors came to Ottawa to exercise their constitutionally protected rights to freedom of expression, peaceful assembly, and association.
3. The Protest took place in the vicinity of the Federal Parliament Buildings. There is no location in Canada where the right to protest enjoys greater constitutional protection and protestors were specifically directed to this area by law enforcement. The Federal Parliament buildings are a frequent site for political protests. The Ottawa Police Service (the “**OPS**”), the Parliamentary Protective Service (the “**PPS**”), the Royal Canadian Mounted Police (the “**RCMP**”), and other law enforcement agencies operating in Ottawa all have significant experience and expertise managing political demonstrations around this area. Anyone choosing to live, work, or operate a business in the immediate vicinity of the Federal Parliament Buildings in a vibrant democracy reasonably expects some annoyance or disruption to their day-to-day lives as a result of the occasional protest.
4. Not only was the *location* of the Protest entitled to maximum constitutional protection, but the *subject* was too. The protestors were attempting to make their voices heard on a political question of great importance to all Canadians: to what degree can the infringement of civil liberties be justified in a medical emergency? This type of political speech lies at the very core of what the right to free expression is enshrined to protect.

5. The GiveSendGo Defendants provided a platform by which money could be donated to support the Protest and the Individual Defendants each had modest involvements with the Protest, although none were leaders of the Protest. None had or exercised any decision-making authority with respect to the Protest. Importantly, none of them ever drove a commercial truck to Ottawa, illegally blocked a street, honked a horn, or otherwise created any unreasonable noise, odor, or pollution during the Protest. None of them did anything to harm any businesses or individuals in Ottawa. None have ever been charged with any illegal conduct in relation to their involvement with the Protest. None have ever encouraged or endorsed any illegal conduct.
6. Contrary to the allegations in the Claim, neither the GiveSendGo Defendants nor the Individual Defendants were ever part of any “common design” to engage in tortious activity. None of them intended tortious activity. As discussed further below, their intentions also differed from one another and differed from the intentions of the other defendants in this action.
7. As described further below, various police officers were in ongoing direct communication with two of the Individual Defendants who diligently followed every instruction provided to them by the police and relayed police instructions to other protestors. The plaintiffs appear to admit that the Protest was not done in contravention of any police directives stating at paragraph 197 of the Claim that the plaintiff Zexi Li (“Li”) never witnessed the OPS engage in any “meaningful action” to “curtail” the Protest and that OPS officers told her that “nothing could be done” about the Protest.
8. The GiveSendGo Defendants and Individual Defendants deny committing any public or private nuisance. Alternatively, if a *prima facie* case of public or private nuisance is

established against any one of them, they each plead that the *Charter* values of freedom of expression, peaceful assembly, and association require the recognition of a common law defence to public and/or private nuisance where the claim for nuisance arises solely from a defendant's participation in a constitutionally protected political protest.

9. Tort law is required to conform with *Charter* values. The *Charter* values of freedom of expression, peaceful assembly, and association, derived from ss. 2(b), (c), and (d) of the *Canadian Charter of Rights and Freedoms*, recognize that the right to engage in political protest is essential to a free and democratic society and seek to protect legitimate political protest from unreasonable interference. It would be manifestly inconsistent with these *Charter* values if individuals who worked *with the police* to ensure they were protesting in compliance with the law, and a fundraising platform that merely *allowed* protestors to fundraise, had to pay hundreds of millions of dollars to the residents of Ottawa as alleged in the Claim.

The Plaintiffs and the Proposed Classes

10. The plaintiff Li is a Government of Canada employee who lives in the vicinity of the Federal Parliament Buildings in Ottawa. The plaintiffs have proposed Li as the representative for a class comprising all people who live in the following area, excluding anyone who “contributed to” or “actively supported” the “Freedom Convoy” (the “**Proposed Resident Class**”):

All addresses and properties on either side of Wellington Street from Booth Street to MacKenzie Avenue, MacKenzie Avenue from Wellington Street to St. Patrick Street, St. Patrick Street from MacKenzie Avenue to Sussex Drive, Sussex Drive from St. Patrick Street to Boteler Street, Boteler Street from Sussex Drive to King Edward Avenue, Kind Edward Avenue from Boteler Street to Murray Street, Murray Street from King Edward Avenue to Beausoleil Drive, Beausoleil Drive from Murray Street to Friel Street, Friel Street from Beausoleil Drive to Laurier Avenue East, Laurier Avenue East from Friel Street to Waller Street, Waller Street from Laurier Avenue to Nicholas Street, Nicholas Street from Waller Street to Laurier Avenue, Laurier Avenue from Nicholas Street to the Queen Elizabeth

Driveway, Queen Elizabeth Driveway from Laurier Avenue to Somerset Street West, Somerset Street West from Queen Elizabeth Driveway to Bay Street, Bay Street from Somerset Street West to Lisgar Street, Lisgar Street from Bay Street to Bronson Avenue, Bronson Avenue from Lisgar Street to Slater Street, Slater Street from Bronson Avenue to Albert Street, Albert Street from Slater Street to Booth Street, Booth Street from Albert Street to Wellington Street. (the “**Proposed Class Area**”)

11. The Proposed Resident Class is highly heterogenous. Some individuals lived right next to the location of the Protest, whereas others lived on the periphery of the Proposed Class Area. Some lived in houses at the ground level, while others lived in tall buildings. Some stayed in Ottawa during the Protest while others were out of town for all or part of it. Among individuals who did not “actively support” the Protest, some passively supported the protestors’ cause while others opposed it. Even among the latter category, some placed greater relative importance on the right to engage in political protest in a free society and were therefore less bothered by the Protest, whereas others placed greater importance on peace and quiet and were therefore more bothered by it. Some committed torts against protestors, while many others did not. For example, Li lived in a condominium building in the Centertown neighbourhood whose residents repeatedly threw eggs on protestors during the Protest. Some lost money as a result of the Protest, whereas others worked for businesses that provided services to the influx of protestors and made money as a result. Some worked from home and some commuted to work. It is likely that some OPS officers and/or other law enforcement officers or government officials or employees, who were responsible for *directing* protestors to protest in the Proposed Class Area, are members of the Proposed Resident Class. The injuries alleged by this class (which are denied) – such as, for example, “emotional distress” – are not uniform or generalizable.

12. Li is also not an appropriate representative for the Proposed Resident Class because she personally consented to court orders allowing the continuation of the Protest. Li obtained an injunction on or about February 7, 2022, and a renewal order on or about February 16, 2022, to prohibit protestors from using air horns or train horns (the “**Honking Injunctions**”). The Honking Injunctions provided that, so long as the various requirements and prohibitions related to honking were complied with, “the Defendants and other persons remain[ed] at liberty to engage in a peaceful, lawful and safe protest.” Li subsequently deposed that, despite finding various other elements of the Protest “annoying”, she specifically instructed her lawyers to consent to this term allowing the Protest to continue so long as the honking stopped.
13. However, Li has not limited her claim to those individuals who honked horns or otherwise breached the Honking Injunctions. Instead, on behalf of the Proposed Resident Class, she makes various allegations unrelated to honking, such as that the protestors unlawfully “blockade[d]” the streets, thereby interfering “with people going to work, school, or appointments”, and making it “difficult for emergency vehicles to attend those in need” and claims damages unrelated to honking, such as “interference with rights of access to public streets and sidewalks,” “breathing and respiratory issues” and “exposure to diesel fumes” (at paragraphs 236-237).
14. The plaintiff Happy Goat Coffee Company Inc (“**Happy Goat**”) is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44. Happy Goat is an Ottawa coffee shop with three locations in the Proposed Class Area (at the time): 229 Rideau Street, 380 Sussex Drive, and a kiosk at the Rideau Station on the O-Train Confederation Line under the Rideau Centre mall. The plaintiff 7983794 Canada Inc., carrying on business as Union: Local 613 (“**Local 613**”), is a company incorporated under the *Canada Business Corporations*

Act, RSC 1985, c C-44. Local 613 is a restaurant located at 315 Somerset Street West in Ottawa. The plaintiffs have proposed Local 613 and Happy Goat as the representatives for a class comprising all businesses operating in the Proposed Class Area, excluding any businesses that “contributed to” or “actively supported” the “Freedom Convoy” (the “**Proposed Business Class**”).

15. The Proposed Business Class is also highly heterogenous. It comprises restaurants, in-person services, home services, and many other sorts of businesses. There are businesses that stayed open during the Protest and businesses that chose to close. Among the former group, there are those that stayed open but reduced hours, those that made use of takeout or contactless delivery services, such as both Happy Goat and Local 613, and those that operated through e-commerce. There are businesses that benefitted from the Downtown Ottawa Business Relief Fund and/or other government business relief funds and businesses that did not. Some businesses (such as another location of Happy Goat at the Alt Hotel at 185 Slater Street where many of the protesters stayed) took advantage of the business coming in from the protestors arriving in Ottawa, and some made more money as a result of the Protest. Businesses also differed in terms of whether they would have been open but for the Protest, since some were required to close or reduce capacity due to COVID-19 restrictions whereas others were not, and still others voluntarily closed due to owner, employee, or customer preferences regarding medical risks. Even Happy Goat and Local 613 differed from one another in terms of the days they were open or closed around the time of the Protest.
16. The plaintiff Geoffrey Devaney (“**Devaney**”) is an Ottawa resident who works as a server in downtown Ottawa. The plaintiffs have proposed Devaney as the representative for a class comprising all people who worked as employees in the Proposed Class Area, excluding any

that “contributed to” or “actively supported” the “Freedom Convoy” (the “**Proposed Employee Class**”).

17. The Proposed Employee Class is also highly heterogenous. For example, Devaney’s Compensation included tips, but most members of the Proposed Employee Class did not receive tips. Some were on salary and some were commission-based. Some received Employment Insurance and others did not. Some wanted to work in person while the Protest was going on, while others did not due to concern about the pandemic. Some had employers who applied for and/or received funding from the Downtown Ottawa Business Relief Fund and/or other government business relief funds, whereas others did not. Some applied for government COVID-19 wage subsidies, whereas others did not.

The GiveSendGo and Individual Defendants and Their Involvements with the Protest

The GiveSendGo Defendants

18. GiveSendGo is a limited liability company with its head office in Dover, Delaware, USA. Wells is a married father, residing in Mansfield, Massachusetts, USA. Wells is the Chief Financial Officer of GiveSendGo and his involvement with the Protest was solely pursuant to his role with GiveSendGo.
19. GiveSendGo hosts an online platform that allows users to create fundraising campaigns. GiveSendGo earns money through voluntary contributions provided by contributors to fundraising campaigns hosted on its platform. It does not charge any fee for the use of its service, nor does it automatically take any portion of the funds raised on its platform.
20. Every fundraising campaign created on the GiveSendGo platform requires users to verify their identities and agree that no fundraising campaign will be used for any illegal purposes.

21. The creator of a fundraising campaign is responsible for choosing a recipient of the funds raised in the fundraising campaign. The recipient then chooses the bank account that will receive the funds. Often, the creator of the fundraising campaign is also the recipient.
22. Every fundraising campaign created on the GiveSendGo platform requires the use of a third-party payment processor, assigned by GiveSendGo, that works in conjunction with the fundraising campaign. The default third-party payment processor for most fundraising campaigns on the GiveSendGo platform is Stripe.com (“**Stripe**”) but GiveSendGo may also, at its discretion, use other third-party payment processors, such as RallyPay.com (“**RallyPay**”).
23. At the time of the Protest, when a fundraising campaign was created on the GiveSendGo platform:
 - a. the creator was automatically prompted to create a Stripe account in their name;
 - b. the fundraising campaign could not start accepting contributions until a recipient of the funds was chosen by the creator and a bank account was chosen by the recipient;
and
 - c. Stripe then transferred funds flowing into the Stripe account in the creator’s name to the bank account chosen by the recipient.
24. However, at the time of the Protest, GiveSendGo was actively working on implementing a new process whereby contributions could be made to a fundraising campaign prior to a recipient being chosen by the creator or a bank account being chosen by the recipient. Under the new process, a Stripe account controlled by GiveSendGo was automatically connected to every fundraising campaign created on the platform. This Stripe account could then receive funds before a creator set up their own Stripe account or designated a recipient. Under the new

process, creators were prompted to create a Stripe account that was a sub-account of the Stripe account controlled by GiveSendGo. This new process had been used by GiveSendGo several times before and during the Protest, and GiveSendGo now uses this new process for every fundraising campaign on its platform.

25. On or about January 18, 2022, Garrah launched a fundraising campaign on the GiveSendGo platform called “Adopt-a-Trucker”. In creating the fundraising campaign, Garrah was prompted to create an account with Stripe and connected one of his personal bank accounts to his Stripe account which was necessary at that time in order for the campaign to start receiving and distributing contributions.
26. On or about February 1, 2022, the “Freedom Convoy 2022” fundraising campaign (the “**Freedom Convoy GiveSendGo Fundraiser**”) was launched on the GiveSendGo platform. The defendant Chad Eros (“**Eros**”), who was involved in setting up the Freedom Convoy GiveSendGo Fundraiser, advised Wells that the recipient of the funds would be a corporation that had been created and registered under Canadian federal law called Freedom 2022 Human Rights and Freedoms (the “**Freedom Corporation**”) and that the Freedom Corporation was in the process of opening a bank account.
27. In accordance with the new process that GiveSendGo was working on implementing at the time and which it now uses for all fundraising campaigns, GiveSendGo connected a Stripe account created by Wells for use as part of his job with GiveSendGo (the “**GiveSendGo Stripe Account**”) to the Freedom Convoy GiveSendGo Fundraiser until the Freedom Corporation could open a bank account and create its own Stripe account, which it subsequently did on or about February 7, 2022. The GiveSendGo Stripe Account was connected to a bank account in Wells’ name that he had also created strictly for use as part of

his job with GiveSendGo (the “**Wells Business Bank Account**”) and where incoming funds could be held on behalf of the Freedom Corporation until the latter could set up its own bank account. In the weeks that followed, Wells performed due diligence on the Freedom Corporation and reviewed its articles of incorporation, bylaws, and other corporate documents to confirm the identity of its officers and directors and that it was a valid Canadian corporation.

28. When the Freedom Convoy GiveSendGo Fundraiser was set up, there were no media reports of criminal charges being laid against protestors, nor any reports that any of the officers or directors of the Freedom Corporation had engaged in unlawful activity. Wells understood that the Freedom Corporation was created to fund a protest against the Canadian government’s response to the COVID-19 pandemic and that various people associated with the Protest were in communication with and taking direction from the OPS and/or other Canadian law enforcement agencies. No one associated with the Canadian government or law enforcement in Canada ever contacted Wells to advise him of any concerns regarding the Protest. Wells had no reason to believe, and did not believe, that the Protest was unlawful.
29. On or about February 7, 2022, to Wells’ surprise, Stripe automatically deposited approximately \$4,900,000.00 USD into the Wells Business Bank Account from the Freedom Convoy GiveSendGo Fundraiser (which Wells later returned to all donors as described further in paragraph 29 below).
30. On or about February 10, 2022, Eros notified Wells that Stripe had placed the account he had created for the Freedom Corporation under review. Stripe allowed Wells to reconnect the GiveSendGo Stripe Account to the Freedom Convoy GiveSendGo Fundraiser, which Wells intended to do on a temporary basis until Stripe had finished its review of Eros’ Stripe account.

31. On or about February 11, 2022, Wells learned that Stripe had restricted access to Garrah's Stripe account that was used for the Adopt-A-Trucker campaign. Wells was not provided with any reason as to why this had occurred. Wells changed the third-party payment processor connected to the Adopt-A-Trucker fundraising campaign to one hosted at RallyPay to allow for further donations to be collected.
32. In or around March 2022, Wells stopped both fundraising campaigns associated with the Protest from receiving further funds and initiated refunds to donors of approximately \$7,000,000.00 USD. The refunds included all monies collected by the Freedom Convoy 2022 GiveSendGo Fundraiser using the GiveSendGo Stripe Account and all monies collected by Adopt-A-Trucker using RallyPay.

Belton

33. Belton is a married grandmother residing in Wallaceburg, Ontario. She and her husband are both truck drivers. In or around December 2021, the Canadian government announced that truck drivers crossing the US-Canada border would have to comply with COVID-19 vaccine mandates as of January 2022. As a result of these policy changes, Belton had been refused work and believed that she and her husband would soon be unable to earn a living as cross-border truck drivers.
34. Facing the possibility that she would be unable to work, Belton came up with the idea of holding a small protest that would last for a short period of time. Belton recalled getting stuck in her vehicle on or about August 6, 2021, on the Blue Water Bridge in Sarnia that had been shut down by striking CBSA workers during their work to rule campaign. Belton believed that she could organize a similar lawful protest that would last for a few hours. Soon thereafter, Belton began making posts on social media stating that truck drivers should hold some kind

of protest in response to the pending vaccine border mandate. Her small following on social media meant that her posts were not gaining much traction.

35. On or about January 2, 2022, in response to one of Belton's posts, the defendant Chris Barber ("**Barber**") communicated his support to Belton of creating a convoy-style protest.
36. On or about January 3, 2022, Belton distributed a graphic on social media promoting the idea of holding a "slow roll" through every province. The graphic did not mention holding a protest in Ottawa and Belton had no intention of encouraging a protest in Ottawa at this time.
37. Soon thereafter, Barber informed Belton that he wanted to include the defendants Dale Enns ("**Enns**") and Joe Janzen ("**Janzen**") in a group to organize a convoy-style protest. Barber also later informed Belton that he would involve the defendant Tamara Lich ("**Lich**") who had contacted him online and had held herself out as someone with experience organizing peaceful protests.
38. On or about January 11, 2022, Belton contacted the defendant James Bauder ("**Bauder**") at Bauder's request. On a call with Bauder, Belton was also introduced by Bauder to the defendant Pat King ("**King**"). Together, Barber, Enns, Janzen, Lich, Bauder, and King all informed Belton that they would be organizing a lawful convoy-style protest that would converge on Ottawa and would include obtaining the required permits. Following this, Belton's social media posts were amplified via distribution to the large social media followings of King, Bauder, Barber, and Lich.
39. Belton wanted to make sure that any protest she engaged in had the approval of the police and did not want to break any laws, since any criminal charge could jeopardize her employment (thereby working contrary to the entire point of the Protest from her perspective). In or around January 2022, Belton was in regular communication with an Ontario Provincial Police

(“**OPP**”) officer named Brian who was based out of Sarnia. On multiple occasions, she was given instructions by Brian that she carried out promptly. Belton also asked Brian for advice to ensure her activities and the activities of the drivers she led to Ottawa were done with the full knowledge and approval of the police.

40. On or about January 27, 2022, Belton led a convoy of trucks out of Sarnia. Belton left Sarnia on this day at the request of the OPP. Once they reached the Greater Toronto Area, another individual named David Steenburg took over and led them to Ottawa. Belton drove her passenger pickup truck to Ottawa. At all times, Bauder assured Belton that he had organized this type of protest before and that all necessary permits would be obtained and the Protest would be done in accordance with the instructions and protocols of police and city officials.
41. Belton arrived in Ottawa on or about January 28, 2022, following instructions posted on road signs. OPS officers first directed protestors to park their vehicles on the street in front of the Canadian War Museum, which she did. On or about January 29, 2022, Belton drove to Arnprior, Ontario to lead a convoy of trucks into Ottawa pursuant to the instructions of OPS officers who had removed various barricades that had been erected and who directed protestors to park on or around Wellington Street near Parliament Hill. Belton parked her passenger pickup truck in the parking lot of the Ottawa Superior Court as instructed by OPS officers.
42. Around this time, and at various other times during the Protest, Keith Wilson (“**Wilson**”) and other lawyers associated with the Justice Centre for Constitutional Freedoms (the “**JCCF**”) made public statements advising protestors that their activities were in compliance with the law. Belton drew comfort that she was not breaking any laws and was engaged in constitutionally protected protest activity from the facts that: (1) she had personally and

proactively consulted with the OPP; (2) OPS officers were providing direction to the protestors about where to drive and where to park and she was complying with all of those directions; and (3) various lawyers at the Protest were making public statements that the Protest was legal.

43. Belton participated in the Protest and came in and out of the city with her personal pickup truck. She was not consulted about any questions of strategy and had no involvement in determining what would be communicated via press conferences or video releases. Her participation in the Protest was that of an ordinary protestor.
44. Shortly after the *Emergency Measures Regulations*, SOR/2022-21 (the “**Emergency Measures**”) were passed on or about February 15, 2022, Belton left downtown Ottawa to stay at a family member’s home in the west end of Ottawa. She also told other protestors that it was time to leave Ottawa, and faced criticism as a result.
45. During her time at the Protest, Belton intended to engage in constitutionally protected speech and took all reasonable precautions to ensure she was complying with the law. To the extent that specific individuals ever planned or engaged in tortious or criminal conduct, Belton did not participate, and they did so without Belton’s approval.

Garrah

46. Garrah resides in Mallorytown, Ontario and is a married father. He is employed as a contractor. In or around January 2022, he believed that the Federal government’s approach to the COVID-19 pandemic was misguided. He discussed his views with other like-minded Canadians and wanted to exercise his constitutionally protected right to protest against what he believed to be government overreach.

47. On or about January 18, 2022, Lich contacted Garrah to invite him to attend a meeting held over Zoom that included Belton, Barber, Bauder, King, and three unidentified accountants in which the Protest was discussed. Garrah was interested in helping the Protest but wanted to ensure that everyone was obeying the law. As a result of Garrah's specific interest in ensuring the Protest's legality, Lich asked Garrah to head to Ottawa in advance of other protestors' arrival to coordinate with police and city officials.
48. On or about January 18, 2022, Garrah created the Adopt-A-Trucker fundraising campaign on the GiveSendGo platform after being informed by Lich that there would be no funding available to cover any expenses incurred in his travels to and from Ottawa. Garrah's intentions at the time were to keep the activities of the Adopt-A-Trucker fundraising campaign separate from the activities of any fundraising campaign created by other protestors including Lich. The purpose of the Adopt-A-Trucker campaign was to provide assistance to protestors arriving in Ottawa during extreme cold weather who might require food, shelter, and other necessities.
49. On or about January 25, 2022, Garrah arrived in Ottawa and was contacted by OPS constable Isabelle Cyr-Pidcock ("**Cyr-Pidcock**"), who identified herself as Garrah's police liaison. Garrah told Cyr-Pidcock that he wanted to ensure the Protest was held in accordance with police instructions and protocols and Cyr-Pidcock told Garrah that she could help him with this. Garrah cooperated with Cyr-Pidcock from the time he arrived in Ottawa until his limited participation in the Protest concluded.
50. When Garrah arrived in Ottawa, a local resident named Doug Munro showed him several potential parking locations that were outside residential areas and the city core. Garrah initially sought to direct other protestors looking to park their vehicles to these privately-owned,

industrial-use properties. However, the OPS then told Garrah to follow OPS instructions about where to park and, on or about January 26, 2022, Cyr-Pidcock advised Garrah that the police had secured the baseball stadium at 302 Coventry Road for protestors upon their arrival in Ottawa. Cyr-Pidcock instructed Garrah to start working on arranging for buses to shuttle the protestors to the Protest from the baseball stadium. Cyr-Pidcock also assigned 15 other police officers as liaisons to 15 other individuals involved with the Protest.

51. On or about January 28, 2022, the first protestors in trucks started to arrive in Ottawa. They parked their trucks in the city in accordance with directions from the OPS, the PPS, the RCMP, and/or other law enforcement agencies. The police did not block or direct protestors away from Wellington Street or tell them they could not park there. OPS officers subsequently erected barricades around the protestors and some protestors told Garrah that they could not get their trucks out due to the barricades. Throughout, Garrah was in regular contact with Cyr-Pidcock and followed the instructions she provided to him at all times about where to direct protestors.
52. For six days starting on or about January 28, 2022, Garrah hosted morning breakfast meetings at the Swiss Hotel located at 89 Daly Avenue in Ottawa. Garrah used these morning meetings to communicate instructions provided by the police to protestors, including about where to protest, shuttling protestors to and from the Protest, and ensuring protestors were fed and hydrated. Contrary to the allegation at paragraph 102 of the Claim, during these six days, the meetings at the Swiss Hotel were run separately from the meetings at the ARC Hotel located at 140 Slater Street in Ottawa and did not involve any of the other defendants to this action except Daniel Bulford (“**Bulford**”). After the first six days, the defendant Bulford and Thomas

O’Conner (“**O’Conner**”) took over leadership of the Swiss Hotel meetings. Thereafter, Garrah had no control or influence over these morning meetings.

53. Aside from hosting morning meetings for six days for the purpose of relaying police instructions to protestors, Garrah had no involvement with leadership of the Protest and was not involved in or consulted about any decisions made by others about where and how to protest.
54. At around the same time, Garrah ceded operational control of the Adopt-A-Trucker fundraising campaign to Serge Fortier (“**Fortier**”), who started accepting donations in cryptocurrency and set up a telephone hotline to receive calls from those protestors and members of the public present in Ottawa that were in need of help. The hotline was managed by Fortier’s wife, Beth Anne Nodwell. Despite handing over leadership of the fundraising campaign, Garrah remained in control of the funds contributed to the Adopt-A-Trucker fundraising campaign by virtue of the fact that the funds were being automatically deposited into his personal bank account associated with the Stripe account he had connected to the Adopt-A-Trucker fundraising campaign. Garrah distributed some of these funds and kept a full accounting of all distributions.
55. On or about January 30, 2022, Eros incorporated the Freedom Corporation and listed Garrah as a director on the belief that it required an Ontario address for incorporation. Garrah has since been removed as a director and now has no association with the Freedom Corporation.
56. On or about February 10, 2022, Garrah learned that his personal bank accounts and credit cards had been frozen, including the account that contained the money raised from the Adopt-A-Trucker campaign.

57. On or about February 11, 2022, Garrah learned that someone had set up a donation table under the “Adopt-A-Trucker” name with a jug to accept cash donations in downtown Ottawa. Garrah had no involvement with the donation table or with any of the funds collected.
58. During his time at the Protest, Garrah intended to engage in constitutionally protected speech and took all reasonable precautions to ensure that he was complying with the law. To the extent that specific individuals ever planned or engaged in tortious or criminal conduct, Garrah did not participate and they did so without Garrah’s approval. Garrah believed that he was not breaking any laws and was at all times engaged in constitutionally protected protest activity due to the facts that: (1) he had personally been in regular contact with the OPS, was following its directions and was actively disseminating the OPS’ instructions to others; and (2) various lawyers, such as Wilson and others associated with the JCCF, were making public statements that the Protest was legal.

St. Louis

59. St. Louis is a married father, residing with his family in Ottawa, Ontario. He operates a business that sells specialized footwear and is trained as a physical therapist. In January 2022, he learned about and subsequently visited the Protest. He agreed with some of what the protestors were saying and believed that certain COVID-19 vaccine mandates were contrary to the principles of informed consent and patient autonomy. More generally, he believed that engaging in peaceful protest is one of the most meaningful acts of civic engagement one can undertake in a democracy and that the vibrancy of a democratic society depends on everyone working together to foster a culture that is not only tolerant but encouraging of peaceful protest, especially on matters as consequential as the abridgement of civil liberties in a medical

emergency. In line with these views, he wanted to do something to support the protestors for patriotic motives.

60. While not a finance professional, St. Louis had a personal interest and some experience with Bitcoin, and decided to use this limited expertise to assist those he believed were engaging in a lawful and peaceful protest. He wanted to raise funds efficiently and quickly to support protestors who were in need of coffee, food, or rental toilets. Bitcoin obviated the need to involve intermediary for-profit companies in the donation process which, he believed, could have delayed things until after there was no longer a need for the funds in question. Moreover, the use of Bitcoin, as opposed to intermediary for-profit companies, allowed fundraisers to avoid incurring additional fees and avoid the risk that a for-profit company motivated by marketing or public relations reasons would decide to stop a fundraising campaign and/or keep some of the funds, should protestors espouse disfavoured or unpopular political views. Contrary to the allegation at paragraph 139 of the Claim that he chose to use Bitcoin to evade seizure by law enforcement, St. Louis always knew that law enforcement could seize, or freeze, funds in Bitcoin, as indeed happened in this case with St. Louis' full cooperation.
61. On or about January 28, 2022, St. Louis posted a QR code on Twitter that allowed any member of the public to contribute Bitcoin. Around this time, St. Louis spoke to various protestors and police officers in Ottawa and, based on these conversations, understood that police were directing protestors about where to protest and that these directions were being followed by protestors. He took comfort from his understanding that the Protest was lawful and was being undertaken in concert with police instructions.
62. St. Louis' fundraising campaign gained little to no traction on Twitter at the outset. However, shortly after it began, Greg Foss ("**Foss**"), a Bitcoin strategist and Ontario-based consultant,

retweeted St. Louis' Twitter post, causing the fundraiser to gain significantly more traction. In the weeks that followed, Foss continued to heavily promote the fundraising campaign, including the concept of establishing a "multi-sig" wallet to accept Bitcoin donations for the Protest after St. Louis expressed discomfort with being the sole custodian of the funds. A multi-sig wallet is a type of Bitcoin wallet with additional security settings that typically requires multiple key holders to complete a transaction. These wallets take more technical knowledge to set up and use than a traditional wallet but have added security benefits.

63. Around this time, Vancouver entrepreneur Jeff Booth ("**Booth**") also joined in the promotion efforts and pointed those interested in contributing to the Protest to St. Louis' fundraising campaign. Foss and Booth are Bitcoin investors who previously worked in financial services, and each have public social media profiles with large followings in the Bitcoin and finance communities. Foss' and Booth's consistent promotion of St. Louis' fundraising campaign caused it to grow rapidly. Ultimately, the campaign raised over 21 Bitcoin units, worth approximately \$1,200,000 at the time.
64. On or about February 13, 2022, Foss and Booth stated that they no longer wanted to be associated with the fundraising campaign. Around this time, St. Louis was receiving legal threats that he would be sued if the funds that had been received were not immediately distributed to protestors. The distribution of Bitcoin to individual protestors was beyond St. Louis' technical knowledge and he turned to a Twitter (now X.com) user named @JWWeatherman_ to develop a protocol and step-by-step instructions on how to distribute the Bitcoin. St. Louis attended a Twitter space where dozens of technical volunteers tested software developed by @JWWeatherman_ for this purpose.

65. Pursuant to his continued belief that the Protest was lawful and was being undertaken in accordance with direction from the police, St. Louis distributed approximately 14.6 Bitcoin to various protestors. The rest of the Bitcoin raised by the campaign was not distributed due to a technical malfunction with the software. Following this, St. Louis came to believe that further distribution of Bitcoin to protestors could be unlawful. As such, consistent with his intention to comply with the law, he ceased attempting to distribute the remaining Bitcoin. On or about February 28, 2022, police officers seized the remaining Bitcoin and St. Louis fully cooperated with police during the seizure.

Dichter

66. Dichter is a truck driver and podcast producer residing in Toronto, Ontario. Like the other Individual Defendants, he came to believe that the Federal government's approach to the COVID-19 pandemic was misguided and discussed his views with other like-minded Canadians in and around January 2022.

67. On or about January 18, 2022, Lich reached out to Dichter and asked for his help responding to media inquiries, issuing press releases, and setting up interviews for Lich about a fundraising campaign on the GoFundMe platform that Lich had started without Dichter's involvement. Soon thereafter, Lich listed Dichter's name on the fundraising campaign's public webpage as the contact for all media inquiries. Lich never gave Dichter access to the fundraising campaign itself and Dichter had no role in organizing Lich's fundraising campaign, which had already been organized by Lich prior to her asking Dichter to assist in responding to media requests.

68. On or about January 28, 2022, Dichter drove his car to Ottawa. He then left Ottawa on or about January 30, 2022 to return to Toronto for work. Dichter never brought his truck to

Ottawa, leaving it in Mississauga during the entirety of the Protest. He never led any trucks or protestors to Ottawa. On or about February 3, 2022, Dichter returned to Ottawa, but got into a car accident outside of Ottawa where his car was damaged beyond repair. After this, he continued to Ottawa without a vehicle of his own.

69. Lich had originally agreed that Dichter's role would be limited to acting as spokesperson for her fundraising campaign on the GoFundMe platform. However, as the Protest progressed, Lich began diverting other media inquiries regarding the Protest to him. Dichter became uncomfortable with the idea of being a spokesperson at large for the Protest, as he did not agree with the views of various other individuals who purported to be leading the Protest, including Lich.
70. For example, on or about February 4, 2022, Wilson posted a message on social media about the Protest that was widely circulated by various influencers. Dichter opposed the negative and confrontational tone of Wilson's message and confronted Wilson at the ARC Hotel about this issue. This was Dichter's only visit to the ARC Hotel during the Protest. Dichter told Wilson that, while he supported a peaceful protest against what he believed to be government overreach, he did not think it was constructive for Wilson to frame the Protest as a battle between protestors and the government. While returning to his own hotel room from the ARC Hotel, Dichter slipped and fell on the ice. He broke his ankle and required surgery. For the rest of the Protest, Dichter was confined to a wheelchair and/or crutches.
71. On or about February 8, 2022, Dichter was replaced by the defendant Tom Marazzo ("**Marazzo**") as the spokesperson for Lich and other individuals who purported to be Protest leaders. As discussed, the Individual Defendants deny that anyone was actually leading the Protest. In the alternative that this self-described leadership group was leading the Protest in

some capacity, none of the Individual Defendants were part of this group. Contrary to the allegation at paragraph 107 that he “organized many of the main news conferences”, Dichter hosted a total of three press conferences, two of which were held prior to being replaced by Marazzo, and each of which were only attended by one or two members of the media and did not gain much publicity.

72. Dichter believed in the protestors’ cause and supported the continuation of the Protest, but only insofar as it was lawful. Dichter never broke the law and never directed anyone else to break the law. He believed that the Protest was being undertaken in accordance with instructions from the OPS and/or other law enforcement agencies such as the PPS and RCMP. He never defied the Emergency Measures and never encouraged other protestors to do so. Indeed, shortly after the passing of the Emergency Measures, Dichter used his Twitter account to urge protestors to leave Ottawa and faced criticism and threats as a result.

The Other Defendants

73. Aside from where details are provided in this statement of defence, the GiveSendGo Defendants and Individual Defendants do not have knowledge about the precise involvement of each of the following other defendants in the Protest: Lich, Marazzo, King, Bauder, Bulford, Enns, Eros, Janzen, Miranda Gasior, Jason LaFace, Ryan Mihilewicz, Sean Tiessen, Harold Jonker, Jonker Trucking Inc, Brad Howland, and the Freedom Corporation (collectively, the “**Other Defendants**”).

No Common Design

74. Contrary to the allegation at paragraph 47 of the Claim, there was no common design on the part of all defendants to engage in “tortious behaviour.” To the extent that there was any common design on the part of any of the Other Defendants to engage in tortious behaviour, the GiveSendGo Defendants and Individual Defendants were not part of this common design and did not support it.
75. The GiveSendGo Defendants operate a fundraising platform that is available to anyone who complies with the law. The GiveSendGo Defendants do not, by virtue of operating such a platform, agree with all (or even necessarily any) of the goals of any particular fundraising campaign and certainly do not have any “common design” with the organizers of specific fundraising campaigns to bring about whatever ends are favoured by those organizers. The GiveSendGo Defendants believed that the Protest was lawful and made their platform available on that basis alone. They would equally have made their platform available to organizers of a counter-protest seeking even stricter COVID-19 measures, for example, provided that such a counter-protest was also lawful.
76. Consistent with its usual practice, GiveSendGo required the funding campaign organizers to agree that their campaigns would not be used for any illegal purposes. The GiveSendGo Defendants were entitled to, and did, rely on these representations. Apart from their stipulation that funds be used exclusively for legal purposes, the GiveSendGo Defendants had no intentions at all (let alone an intention in common with all other defendants in this action) about how the Protest should be carried out, and they never directed any protestors to act in any particular way.

77. The Individual Defendants each had small roles in the Protest. Their views only reached a wide audience when amplified by some of the Other Defendants or other individuals with larger followings and reach whom they had no ability to direct or otherwise control. They were not leaders of the Protest themselves and did not have any ability to exert control over any leadership group. They each intended to exercise their constitutionally protected right to protest against what they believed to be misguided government policy. Their only common intention was to lend their support to a legal protest.
78. The Individual Defendants did not simply hope that the Protest was legal, but took all reasonable steps to ensure their activities were legal. For instance, as discussed above, Belton reached out to the OPP to ensure that the Protest was legal and Garrah sought daily instructions from the OPS about what the police wanted protestors to do and relayed those instructions to protestors to ensure that everyone was able to comply with the law. Indeed, at paragraph 197, the plaintiffs appear to admit that the protestors were complying with police directions, by stating that OPS officers told Li that nothing could be done about the Protest and that the OPS never meaningfully curtailed the behaviour of the protestors.
79. Neither the GiveSendGo Defendants nor the Individual Defendants ever engaged in any tortious behaviour. There was no common design on the part of any of them to engage in any tortious behaviour or to facilitate tortious behavior. To the extent that any of the Other Defendants or any individuals not named in the Claim engaged in tortious behaviour at the Protest or had a common design to engage in tortious behaviour, they did so against the wishes of both the GiveSendGo Defendants and the Individual Defendants who had no ability to influence them. The GiveSendGo Defendants and the Individual Defendants additionally rely

on the doctrine of *novus actus interveniens* with respect to any tortious behaviour by any of the Other Defendants or any individuals not named in the Claim.

No Private Nuisance

80. The GiveSendGo Defendants did not commit a private nuisance. GiveSendGo is an American Company and Wells never set foot in Ottawa during the Protest. Neither of them ever told protestors to engage in tortious behaviour or encouraged any such behaviour. They never told Protestors to make any noise, or to cause any odor or pollution. The fundraising campaign organizers did not state anywhere on the GiveSendGo Platform that tortious or unlawful activity was planned or would be facilitated by donations. As discussed, all organizers were required to agree to GiveSendGo's terms of use prohibiting use of the platform for any unlawful activity and the GiveSendGo Defendants reasonably relied on such representations.
81. The Individual Defendants did not commit a private nuisance either. None of them drove commercial trucks to Ottawa. None engaged in any honking or otherwise created any unreasonable noise. None of them contributed to any of the alleged odor or pollution complained of by the plaintiffs. None of them counselled anyone to commit tortious or illegal acts. Indeed, the Individual Defendants were extremely motivated to follow the law and actively sought out assistance from the police to ensure not only that they were complying with the law, but that other protestors were as well. None of them were leaders of the Protest and none had any ability to affect the course of the Protest or its duration.

No Public Nuisance

82. For the reasons set out above, the GiveSendGo and Individual Defendants have also not committed any public nuisance. Moreover, since this action is not approved by the Attorney General, the plaintiffs are required to demonstrate that they suffered particular loss or damage not suffered by the community at large. This is a logical impossibility since the proposed plaintiff classes *are* the community at large.
83. Alternatively, the plaintiffs have not suffered any loss or damage over and above that suffered by the public generally as a result of the Protest.

Common Law Defence of Participating in a Political Protest

84. In the alternative that a *prima facie* case of public or private nuisance is established against any of the GiveSendGo Defendants or the Individual Defendants, which is denied, they each plead that the *Charter* values of freedom of expression, peaceful assembly, and association require the recognition of a common law defence to claims for public and/or private nuisance where the claim for nuisance arises solely from the defendant's participation in a constitutionally protected political protest. This would be an incremental revision and logical extension of the existing jurisprudence which already recognizes the need for affirmative defences to bring tort law in line with *Charter* values.
85. The right to engage in political protest is one of the most fundamental rights in Canada. People who live near the Federal Parliament Buildings, just like those who live near other seats of government or in major cities, can reasonably expect that their lives will be occasionally disrupted by political protests. This is part of living in a free society. Political protests will

almost always inconvenience or annoy some people who live or work in the vicinity of the Protest and likewise will almost always interfere with the use of public spaces to some degree.

86. The right to engage in political protest is weighed against other norms and values in Canada via a delicate constitutional balance. When governments pass laws that abridge the right to engage in political protest, the police can enforce these laws and the constitutionality of the laws themselves and of any police enforcement action can be reviewed by an independent judiciary. If ordinary citizens are unhappy with the way these laws are drafted or enforced, they may have legal remedies against governments and political remedies at the ballot box. A key component of the *Charter* values set out above is that when the interests of the *public at large* are pitted against individual protestors, this delicate mechanism – of democratic lawmaking, police enforcement, and review by an independent judiciary – should govern the dispute. The alternative legal mechanism proposed in the Claim – that the public at large (or large segments of it) can directly sue protestors for any economic harm caused by protesting, and that *class action law* should determine how to balance the public interest in safety and order against the rights of individuals to protest freely, is manifestly inconsistent with *Charter* values.

Issue Estoppel, Cause of Action Estoppel, Collateral Attack, Abuse of Process

87. As set out above, while the Protest was ongoing and trucks were already parked in the Proposed Class Area, Li personally consented to a term in both Honking Injunctions allowing the Protest to continue so long as the various requirements and prohibitions related to honking were followed. Li had counsel at the time and deposed that she instructed counsel to consent to this term despite finding other aspects of the Protest annoying. The doctrines of issue

estoppel, cause of action estoppel, collateral attack and abuse of process bar Li from advancing claims for aspects of the continuing Protest that did not breach the Honking Injunctions. While some of the Other Defendants may have breached the Honking Injunctions, neither the Individual Defendants nor the GiveSendGo Defendants ever breached any aspect of the Honking Injunctions (nor is this even alleged in the Claim) and Li's claims as against them should therefore be struck in their entirety.

No Damages

88. The GiveSendGo Defendants and Individual Defendants deny that the plaintiffs have suffered the damages alleged in the Claim and put the plaintiffs to the strict proof thereof. To the extent that any damages were suffered, such damages are highly individualized and are not suitable to assessment via class proceeding.
89. Alternatively, the GiveSendGo Defendants and Individual Defendants did not cause or contribute to any damages suffered by the plaintiffs.
90. Alternatively, the damages claimed by the plaintiffs are excessive and/or remote and/or the plaintiffs have failed to take reasonable steps to mitigate their damages. Remedies for the alleged losses claimed have been provided by municipal, provincial and federal governments.
91. The GiveSendGo Defendants and Individual Defendants further plead the economic losses alleged are not recoverable in a class proceeding for private or public nuisance.
92. A class proceeding is not the appropriate procedure given the lack of common issues, the heterogenous nature of the proposed classes, the conflicts of interests between class members, and for public policy reasons rooted in the *Charter* values of freedom of expression, peaceful assembly, and association.

93. The GiveSendGo Defendants and Individual Defendants plead and rely on the provisions of the *Class Proceedings Act*, 1992, S.O. 1992, c. 6, and the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, each as amended.
94. The GiveSendGo Defendants and Individual Defendants request that the Claim be dismissed with costs on an appropriate scale.
95. The GiveSendGo Defendants and Individual Defendants propose that this action be tried in Toronto or, alternatively, another location other than Ottawa that the Chief Justice or his designate deems appropriate. Ottawa is not an appropriate venue as the Ottawa Courthouse is inside the Proposed Class Area. It is likely that Judges and Court staff at the Ottawa Courthouse, and/or members of their families and others not at arm's-length from them, are (1) part of the proposed classes, and (2) may have directly witnessed the events at issue.

April 1, 2025

Dimitrios (Jim) Karahalios (LSO# 56101S)
Jim Karahalios Professional Corporation

[REDACTED]

Andrew Burgess (LSO# 670430)
Andrew Burgess Professional Corporation

[REDACTED]

Lawyers for the Defendants, GiveSendGo LLC, Jacob Wells, Chris Garrah, Nicholas St. Louis, Benjamin Dichter, and Brigitte Belton.

TO: CHAMP & ASSOCIATES

[REDACTED]

Paul Champ (LSO# 45305K)

[REDACTED]

Lawyer for the Plaintiffs

AND TO: CHARTER ADVOCATES CANADA

[REDACTED]

James Manson (LSO# 54963K)

[REDACTED]

Lawyer for the Defendants,
Tamara Lich, Tom Marazzo, Chris Barber,
Sean Tiessen, Miranda
Gasior, Daniel Bulford, Ryan
Mihilewicz, Dale Enns, Brad Howland,
Harold Jonker, Jonker Trucking Inc., and
Freedom 2022 Human Rights and
Freedoms

AND TO: OVERWATER BAUER LAW

[REDACTED]

Shelley Overwater

[REDACTED]

Lawyer for the Defendants, Patrick James
King and Joe Jacob Abram Janzen

AND TO: Chad Eros

[REDACTED]

Defendant

ZEXI LI, et al.
Plaintiffs

- and -

CHRIS BARBER, et al.
Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED IN OTTAWA

STATEMENT OF DEFENCE

Dimitrios (Jim) Karahalios (LSO# 56101S)
Jim Karahalios Professional Corporation

[REDACTED]

Andrew Burgess (LSO# 670430)
Andrew Burgess Professional Corporation

[REDACTED]

Lawyers for the Defendants, GiveSendGo LLC, Jacob Wells, Chris Garrah, Nicholas St. Louis, Benjamin Dichter, and Brigitte Belton.

This is Exhibit "C" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]

A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Thursday, February 12, 2026 at 8:24:46 PM Eastern Standard Time

Subject: FW: Li v. Barber-Decision and Reasons-February 5 2024
Date: Tuesday, February 6, 2024 at 9:35:43 AM Eastern Standard Time
From: Paul Champ
To: James Manson, Shelley Overwater, Jim Karahalios
CC: Christine Johnson
Attachments: Li v. Barber Reasons Feb 5 2024.pdf

The Plaintiffs expect all defendants to serve and file their Defences within 10 days or they will be noted in default.

Paul Champ
CHAMP & ASSOCIATES | CHAMP & AVOCATS

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: Gloyn, Tina (JUD) [REDACTED]
Sent: Tuesday, February 6, 2024 9:19 AM
To: Paul Champ [REDACTED]
Subject: Li v. Barber-Decision and Reasons-February 5 2024

Good Morning Counsel,

Please see attached the decision from RSJ MacLeod in the above matter.

Kindly confirm receipt.

Regards,

Tina

Tina Gloyn
Judicial Assistant
Superior Court of Justice
Ottawa Courthouse

Thursday, February 12, 2026 at 8:26:15 PM Eastern Standard Time

Subject: RE: Li v. Barber-Decision and Reasons-February 5 2024
Date: Wednesday, February 7, 2024 at 6:48:23 PM Eastern Standard Time
From: Paul Champ
To: James Manson, Shelley Overwater, Jim Karahalios
CC: Christine Johnson

James, Shelley and Jim,

Jim has shared an authority to me today that suggests the stay continues through the appeal period. I don't interpret s. 137.1(5) the same way, but I'm not going to get into a motion about it. We have enough of those.

The Plaintiffs will agree to allowing all defendants until March 18, 2024, to serve and file defences. That will be 10 days following the expiry of the appeal period.

Unless of course James wishes to take us all to the Court of Appeal...

Paul Champ

CHAMP & ASSOCIATES | CHAMP & AVOCATS

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: Paul Champ [REDACTED]
Sent: Tuesday, February 6, 2024 9:36 AM
To: James Manson [REDACTED]; Shelley Overwater [REDACTED]
 Jim Karahalios [REDACTED]
Cc: Christine Johnson [REDACTED]
Subject: FW: Li v. Barber-Decision and Reasons-February 5 2024

The Plaintiffs expect all defendants to serve and file their Defences within 10 days or they will be noted in default.

Paul Champ

CHAMP & ASSOCIATES | CHAMP & AVOCATS

This email is subject to legal privilege. If this message was not intended for you, please immediately

delete and notify the sender. Thank you.

From: Gloyn, Tina (JUD) [REDACTED]
Sent: Tuesday, February 6, 2024 9:19 AM
To: Paul Champ [REDACTED]
Subject: Li v. Barber-Decision and Reasons-February 5 2024

Good Morning Counsel,

Please see attached the decision from RSJ MacLeod in the above matter.

Kindly confirm receipt.

Regards,

Tina

Tina Gloyn
Judicial Assistant
Superior Court of Justice
Ottawa Courthouse

[REDACTED]

This is Exhibit "D" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.



A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Thursday, February 12, 2026 at 8:27:39 PM Eastern Standard Time

Subject: RE: Li v. Barber - Request for Production of Settlement Agreements
Date: Tuesday, May 14, 2024 at 7:54:02 PM Eastern Daylight Saving Time
From: Paul Champ
To: James Manson, [REDACTED]
Attachments: image001.png

Hi James,

In a class action, that information must be disclosed at an appropriate time. This is not an appropriate time and I question why you would need it right now.

Paul Champ

CHAMP & ASSOCIATES | CHAMP & AVOCATS

[REDACTED]

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: James Manson [REDACTED]
Sent: Tuesday, May 14, 2024 7:10 PM
To: Paul Champ [REDACTED]
Subject: Li v. Barber - Request for Production of Settlement Agreements

Paul – please forward all settlement agreements in this proceeding that have been entered into between the plaintiffs and:

1. any of the named defendants
2. any potential members of any of the proposed defence classes.

Thanks,

James Manson

Senior Lawyer
Charter Advocates Canada

[REDACTED]



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TRANSMISSION PROBLEMS: In the event of transmission problems, please contact James Manson at [REDACTED]

This is Exhibit “E” referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]
A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Thursday, February 12, 2026 at 8:30:48 PM Eastern Standard Time

Subject: Barber et al. ats Li et al. (CV-22-88415-CP)
Date: Monday, December 22, 2025 at 12:18:40 PM Eastern Standard Time
From: Andrew Burgess
To: Paul Champ
CC: James Manson, [REDACTED], Chris Fleury, Jim Karahalios, [REDACTED] Bird

Paul,

I have recently become aware of some troubling information. I understand that, in April 2024, you executed an agreement with the self-represented defendant Chad Eros. This agreement appears to place various obligations on Mr. Eros to cooperate with the plaintiffs that *precede* any court approval of the settlement. For instance, the agreement seems to require Mr. Eros to supply documents and an affidavit to the plaintiffs in support of their certification motion before knowing whether the proposed settlement will be approved by the court.

In my view, it is unclear whether this type of cooperation agreement is even legal. After all, how can an agreement create binding obligations on one party that must be discharged *before* the agreement becomes binding? It is doubtful that any lawyer would advise his client to enter into such an agreement, since, if the settlement is not approved, his client would be unable to *undo* the cooperation and would be hopelessly prejudiced in the ongoing litigation for having cooperated. It is therefore very concerning that you entered into this agreement with Mr. Eros while he was self-represented, given the heightened duty of fairness owed to self-represented litigants.

What is even more troubling is that you did not disclose this agreement to the other defendants. In May 2024, James Manson requested disclosure of any settlement agreements between your clients and any other defendants. You responded on May 14, 2024 that “in a class action, that information must be disclosed at an appropriate time” and this was “not an appropriate time”. What I assume you were suggesting was that the settlement agreements would be disclosed when court approval was sought. I’ll note parenthetically that an aspect of this issue may have to be determined by appellate courts, since some lower courts have held that failure to immediately disclose a settlement agreement in a class action leads to a stay (see, for example, *Ball v 1979927 Alberta Ltd*, 2024 ABKB 229, considering identical language in the Alberta CPA), whereas others have held that disclosure as part of the settlement approval process is sufficient in cases where *no aspect of the agreement predates court approval*. However, whatever the ultimate outcome of that jurisprudential debate, the case law is clear that an agreement such as the one your clients entered into with Mr. Eros *must* be disclosed immediately. For example, in *Zwaniga v. JohnVince Foods Distribution L.P.*, 2012 ONSC 3848, Justice Perrell stated that immediate disclosure of a pre-approval cooperation agreement in a proposed class action was “mandatory” and further stated that it was “*disturbing*” that the cooperation agreement in that case (as in this case) created obligations preceding any court approval of the agreement (see paras. 31-33).

Our clients intend to seek a remedy for your unlawful non-disclosure. In view of this, please immediately provide me with copies of any settlement or cooperation

agreements that the plaintiffs have made with any of the defendants or any members of the proposed defendant classes in this case. Given your failure to move your own certification motion forward, our clients also intend to bring a summary judgment motion prior to the hearing of the certification motion, but I am of the view that this issue relating to your non-disclosure of at least one cooperation agreement should be addressed before the summary judgment motion.

Andrew

Andrew Burgess



 **Andrew Burgess**
Professional Corporation

This message, including any attachments, may be privileged and may contain confidential information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify the sender immediately by reply email and permanently delete the original transmission, including any attachments, without making a copy. Thank you.

This is Exhibit "F" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]
A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Thursday, February 12, 2026 at 8:32:03 PM Eastern Standard Time

Subject: RE: Barber et al. ats Li et al. (CV-22-88415-CP)
Date: Tuesday, January 27, 2026 at 3:01:22 PM Eastern Standard Time
From: Paul Champ
To: Andrew Burgess
CC: James Manson, [REDACTED], Chris Fleury, Jim Karahalios, [REDACTED] Bird, Chad Eros, Christine Johnson
Attachments: Settlement Agreement with Chris Eros 2024.pdf

Dear Andrew et al,

I am writing with respect to your demands to know about the Plaintiffs negotiations with the individual named defendant Chad Eros. We understand our obligation to disclose settlements in class actions. In this case, it was our view that we did not have to disclose our agreement with Mr Eros until it became effective. Since Mr Eros did not meet the first term of the agreement, the entire agreement became null and void. In short, there is no settlement.

While the Plaintiffs do not believe we have an obligation to disclose in these circumstances, I have discussed with Mr Eros and he has consented to disclose the attached. This is on a without prejudice basis as we maintain that the Plaintiffs did not have an obligation to disclose until the agreement became confirmed and effective. Obviously, it is also our position that an implied undertaking also attaches to this document.

With respect to whether Mr Eros was self represented or represented by legal counsel during those negotiations, I won't comment. If you still believe that issue is relevant I can communicate further with Mr Eros.

I also wish to confirm that Mr Eros is copied here.

Paul Champ
CHAMP & ASSOCIATES | CHAMP & AVOCATS

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: Andrew Burgess [REDACTED]
Sent: December 22, 2025 12:18 PM
To: Paul Champ [REDACTED]
Cc: James Manson [REDACTED] Chris Fleury [REDACTED]; Jim Karahalios [REDACTED] Bird [REDACTED]
Subject: Barber et al. ats Li et al. (CV-22-88415-CP)

Paul,

I have recently become aware of some troubling information. I understand that, in April 2024, you executed an agreement with the self-represented defendant Chad Eros. This agreement appears to place various obligations on Mr. Eros to cooperate with the plaintiffs that *precede* any court approval of the settlement. For instance, the agreement seems to require Mr. Eros to supply documents and an affidavit to the plaintiffs in support of their certification motion before knowing whether the proposed settlement will be approved by the court.

In my view, it is unclear whether this type of cooperation agreement is even legal. After all, how can an agreement create binding obligations on one party that must be discharged *before* the agreement becomes binding? It is doubtful that any lawyer would advise his client to enter into such an agreement, since, if the settlement is not approved, his client would be unable to *undo* the cooperation and would be hopelessly prejudiced in the ongoing litigation for having cooperated. It is therefore very concerning that you entered into this agreement with Mr. Eros while he was self-represented, given the heightened duty of fairness owed to self-represented litigants.

What is even more troubling is that you did not disclose this agreement to the other defendants. In May 2024, James Manson requested disclosure of any settlement agreements between your clients and any other defendants. You responded on May 14, 2024 that “in a class action, that information must be disclosed at an appropriate time” and this was “not an appropriate time”. What I assume you were suggesting was that the settlement agreements would be disclosed when court approval was sought. I’ll note parenthetically that an aspect of this issue may have to be determined by appellate courts, since some lower courts have held that failure to immediately disclose a settlement agreement in a class action leads to a stay (see, for example, *Ball v 1979927 Alberta Ltd*, 2024 ABKB 229, considering identical language in the Alberta CPA), whereas others have held that disclosure as part of the settlement approval process is sufficient in cases where *no aspect of the agreement predates court approval*. However, whatever the ultimate outcome of that jurisprudential debate, the case law is clear that an agreement such as the one your clients entered into with Mr. Eros *must* be disclosed immediately. For example, in *Zwaniga v. JohnVince Foods Distribution L.P.*, 2012 ONSC 3848, Justice Perrell stated that immediate disclosure of a pre-approval cooperation agreement in a proposed class action was “mandatory” and further stated that it was “*disturbing*” that the cooperation agreement in that case (as in this case) created obligations preceding any court approval of the agreement (see paras. 31-33).

Our clients intend to seek a remedy for your unlawful non-disclosure. In view of this, please immediately provide me with copies of any settlement or cooperation agreements that the plaintiffs have made with any of the defendants or any members of the proposed defendant classes in this case. Given your failure to move your own certification motion forward, our clients also intend to bring a summary judgment motion prior to the hearing of the certification motion, but I am of the view that this issue relating to your non-disclosure of at least one cooperation agreement should be addressed before the summary judgment motion.

Andrew

Andrew Burgess



 Andrew Burgess
Professional Corporation

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This is Exhibit "G" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]
A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

SETTLEMENT AGREEMENT

This Settlement Agreement (the “**Settlement Agreement**”) is dated April 3, 2024, by and between:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC, 7983794 CANADA INC.
(c.o.b. as UNION: LOCAL 613) and GEOFFREY DEVANEY (the “Plaintiffs”)**

- and -

CHAD EROS (the “Settling Defendant”)

(collectively, the “**Parties**”).

I. RECITALS

WHEREAS the Plaintiffs have commenced the Action which alleges that the defendants in the Action (the “Defendants”), including the Settling Defendant, participated in a private nuisance and a public nuisance that harmed the Plaintiffs and the Classes they represent, as referred to in the Further Fresh as Amended Statement of Claim, bearing court file number CV-22-00088514-00CP;

WHEREAS the Settling Defendant denies all of the allegations in the Action and believes that he has good and reasonable defences in respect of certification of the Action and the merits in the Action;

WHEREAS the Parties desire to compromise and settle all claims made, and which could have been made, against the Settling Defendant in the Action;

WHEREAS, in addition, the Plaintiffs and their counsel have determined that there would be substantial benefits for the Classes in securing access to cooperation from the Settling Defendant;

WHEREAS, the Settling Defendant has negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience, and burden of this litigation, and any other present or future litigation arising out of the facts that gave rise to this litigation, and to achieve a resolution of all claims asserted or which could have been asserted against him by the Plaintiffs on their own behalf and on behalf of the classes they seek to represent, and to avoid the risks inherent in uncertain, complex and protracted litigation;

WHEREAS as part of this resolution, the Settling Defendant has agreed to cooperate with the Plaintiffs and their counsel by providing truthful information related to the allegations made in the Action against the remaining Defendants in the Action;

WHEREAS the Plaintiffs have agreed to accept this settlement, in large part because of the significant value of the Settling Defendant's cooperation pursuant to this Settlement Agreement;

WHEREAS this Settlement Agreement was entered into after extensive arm's length discussions and negotiations between counsel for the Plaintiff and counsel for the Settling Defendant;

WHEREAS the Parties desire and intend to seek court approval of the Settlement as set forth in this Settlement Agreement; and

NOW, THEREFORE, the Parties agree, subject to Court approval, to the following:

II. DEFINITIONS

1. As used in the Settlement Agreement, including the Recitals and Schedules hereto, in addition to any definitions elsewhere in the Agreement, the following terms shall have the meanings set forth below:
 - (a) **"Class Counsel"** means the law firm of Champ & Associates and Camp Fiorante Matthews Mogerman LLP;
 - (b) **"Contested Certification Order"** means an order in which the Court determines that some or all of the Plaintiffs' claims in this Action may proceed as a class proceeding within the meaning of s. 5 of the *Class Proceedings Act*, 1992, SO 1992, c 6;
 - (c) **"Court"** means the Ontario Superior Court of Justice;
 - (d) **"Document"** means any document that is relevant to the claims made in this Action, and includes a photograph, film, recording of sound, any record of a permanent or semi-permanent character and any information recorded or stored by means of any device;

- (e) **“Effective Date”** means the next calendar day after the day on which all appellate rights with respect to the Settlement Approval Order have expired or have been exhausted or such other date as may be agreed upon by all of the Parties in writing;
- (f) **“Non-Settling Defendants”** means the remaining Defendants in the Action and any others who may be added as defendants at any time, as that term is defined in the Statement of Claim;
- (g) **“Settlement”** means the settlement described in this Settlement Agreement;
- (h) **“Settlement Amount”** means the all-inclusive sum of \$60,000;
- (i) **“Settlement Approval Hearing”** means the date the Court schedules to consider the Settlement Approval Order;
- (j) **“Settlement Approval Order”** means the order made by the Court in the Action approving the Settlement Agreement;
- (k) **“Settlement Notice Approval Order”**: means the order approving the notices of Settlement Approval Hearing and, if necessary, certifying the Settlement Class;
- (l) **“Settlement Class”** means the class as defined in paragraph 49-53 of the Further Fresh As Amended Statement of Claim certified in the Contested Certification Order, or the class certified in the Contested Certification Order;
- (m) **“Settlement Class Member”** means the members of the Settlement Class who have not opted-out of the Action; and
- (n) **“Settlement Fund”** means a trust account held by Class Counsel which will hold the Settlement Amount.

III. SETTLEMENT PAYMENT

2. The Settling Defendant will pay, or cause to be paid, the Settlement Amount to Champ & Associates, in trust, within six months from the date of this Settlement Agreement. In the event the Settling Defendant does not pay or cause to be paid the Settlement Amount by the date of this agreement, this entire Settlement Agreement shall be void and may not be enforced or relied upon by any party.
3. The Settling Defendant shall pay the Settlement Amount to Champ & Associates, in trust, as described above with the following irrevocable instructions:
 - (a) hold the Settlement Amount in an interest-bearing trust account pending the Settlement Approval Order; and
 - (b) if the Settlement is not approved in the Action, or the Contested Certification Order is not granted, to return the Settlement Amount and all interest earned thereon to the Settling Defendant upon his request to do so.
4. Upon receiving the Settlement Amount, Class Counsel will deposit those monies into the Settlement Fund.
5. The Settling Defendant's obligations under the Settlement Agreement are limited to those set out in paragraphs 2, 9, 9, 10, **Error! Reference source not found.**, 14, **Error! Reference source not found.** and 12 herein. For greater clarification, the payment of all expenses and costs of the Settlement, including, without limitation, Settlement Class Members' claims, legal fees, the plaintiffs' share of mediation expenses, honouraria, administration expenses, taxes, and notice costs shall be paid out of the Settlement Amount and the Settling Defendant shall have no further liability in respect of any these (or any other) expenses or costs.
6. The Settling Defendant shall have no legal or beneficial interest in the Settlement Fund.

IV. APPROVAL PROCESS

7. At times to be determined by the Plaintiffs after the Contested Certification Order is granted, the Plaintiffs shall bring two motions before the Court: first, for the Settlement Notice Approval Order, and second, for the Settlement Approval Order. The Settling Defendant will consent to both the Settlement Notice Approval Order and the Settlement Approval Order.
8. The Settlement Approval Order sought by the Plaintiffs will include a provision granting leave to further amend the Statement of Claim to include the following plea:

Pursuant to the Settlement Agreement, the Plaintiff and Classes waive all rights to recover from Chad Eros, the Settling Defendant, any portion of their damages which are attributable to any fault of the Settling Defendant, and for which any of the Non-Settling Defendants could claim for contribution, indemnity and/or other relief in relation to this Action.
9. As soon as reasonably possible after the Effective Date, and within no more than fifteen (15) days, the Plaintiffs shall discontinue the Action as against the Settling Defendant, who shall cooperate in the Plaintiffs' efforts to obtain any order required from the Court and to implement the Settlement Agreement, including the Settlement Approval Order.
10. At the Settlement Approval Hearing, Class Counsel may seek court approval of class counsel fees, disbursements and honouraria to the representative plaintiffs. The Settling Defendant will take no position on such an application.
11. If either or both of the Contested Certification Order and the Settlement Approval Order are not granted, are inconsistent with the terms of the Settlement Agreement, or are reversed or modified on appeal, then unless the Parties expressly agree otherwise in writing:

- (a) this Settlement Agreement and all orders made pursuant to it shall be null and void, shall have no further force and effect with respect to the Parties, and shall not be offered in evidence or used in any litigation for any purpose; and
- (b) all orders in existence as of the date on which this Settlement was executed shall become operative and fully effective, as if proceedings relating to this Settlement had not occurred.

V. COOPERATION – SCOPE OF COOPERATION

- 12. Within 60 days of the execution of this Settlement Agreement by the Parties, the Settling Defendant shall provide to the Plaintiffs and Class counsel copies of all Documents in his possession, power or control.
- 13. The Parties respectively acknowledge and agree that all information and Documents provided by the Settling Defendant to the Plaintiffs under this Settlement Agreement may be used by the Plaintiffs in connection with the investigation, prosecution and settlements of the claims in the Action including, without limitation, the certification of the Action and prosecution of the claims in the Action against the Non-Settling Defendants, provided that such information and Documents shall not be used directly or indirectly for any other purpose. The Plaintiffs shall take all reasonable steps and precautions to ensure and maintain the confidentiality of the information and Documents.
- 14. At the request of the Plaintiffs and upon reasonable notice, the Settling Defendant shall:
 - (a) make himself available to provide information relating to the allegations in the Action in three personal interviews with Class Counsel, lasting no more than five (5) hours each, which may be transcribed by a court reporter, and which will occur at mutually convenient locations and on three separate mutually convenient dates:

- (i) after the date that they have completed their document production obligations described in paragraph 12 above;
 - (ii) after document disclosure by the Non-Settling Defendants has commenced; and
 - (iii) after examinations for discovery of the Non-Settling Defendants has commenced;
- (b) make himself reasonably available to provide an affidavit in support of either or both the certification of the Action and any summary judgment application brought by or against the Plaintiffs in the Action, and to attend for cross-examination on any such affidavit; and
 - (c) make himself reasonably available to provide evidence at the trial of the Action, including for the authentication of Documents, and to meet with Class Counsel in preparation for testifying at trial.
15. The provisions set forth in this Part V shall constitute the exclusive means by which the Plaintiffs may obtain discovery and/or evidentiary disclosure from the Settling Defendant for the purposes of any certification and/or any other application, for discovery and/or for trial in connection with the Action, and the Plaintiffs shall pursue no other means of discovery and/or evidentiary disclosure as against the Settling Defendant in connection with the Action.
16. Nothing in this Settlement Agreement shall require, or shall be construed to require, the Settling Defendant to perform any act which would violate any provincial, federal or foreign law, to disclose or produce any information or Documents prepared by or for counsel for the Settling Defendant, or to disclose or produce any information or Documents subject to solicitor-client privilege or other forms of privilege or immunity.
17. Subject to the other provisions of this Part V, the obligations of the Settling Defendant to produce Documents pursuant to this Part V shall be a continuing

obligation to make reasonable additional productions to the extent that the Settling Defendant becomes aware of and collects further Documents following the initial production.

18. The Plaintiffs may seek directions and/or orders from the Court relating to their rights under this Part V should the Settling Defendant not act reasonably in terms of his obligations under this Part V, or acts in a manner that is inconsistent with the spirit and intent of this Part V, including, but not limited to, the resolution of any dispute concerning any claim of privilege by the Settling Defendant over any Document. Likewise, the Settling Defendant may seek directions and/or orders from the Court relating to his rights under this Part V should the Plaintiffs or Class Counsel not act reasonably under this Part V, or act in a manner that is inconsistent with the spirit and intent of this Part V.
19. The Settling Defendant's obligation to cooperate under this Settlement Agreement shall cease at the date of final judgment in the Action as against all Defendants (or, if applicable, the date of any settlement approval order that disposes of the Action). Following the Effective Date, in the event the Plaintiffs allege a material breach by the Settling Defendant of his obligations under this Part V, the Plaintiffs shall have the right to apply to the Court for specific performance in respect of such obligations and to seek such further or other relief as the Court determines is appropriate.

VI. COVENANT NOT TO SUE

20. Upon the Effective Date of Settlement, the Plaintiffs and the Settlement Class Members, covenant and agree that they will not bring, commence, prosecute or maintain, or cause or permit to be brought, commenced, prosecuted or maintained, or otherwise join, assist, aid or act in concert in any manner whatsoever, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or person, against the Settling Defendant, any claims, demands, actions, proceedings, suits, causes of action and manners of action that have been brought or could have been brought, are currently pending or were

pending, or which could be brought in the future, whether known or unknown, asserted or unasserted, under or pursuant to any statute, regulation, common law or equity, whether civil, criminal, regulatory or otherwise, arising from or in any way relating to the pleaded facts, or the facts which could have been pled, in the Action.

21. The Parties expressly acknowledge and agree that the covenants set out in paragraph 20 above is not a Release, and shall not be construed to be a Release, and that the Plaintiffs and Settlement Class Members expressly reserve all rights of action, claims and demands they have against the remaining Defendants in the Action or others concerning the facts pleaded in the Action, except that the Plaintiffs and Settlement Class Members covenant, undertake and agree that they will not seek to recover in the Action, or by any other proceedings or means, any portion of the losses they claim, or could claim, in the Action which a court or other tribunal may attribute to the Settling Defendant.

VII. GENERAL

22. The recitals to this Settlement Agreement are true and accurate, and form part of this Settlement Agreement.
23. This Settlement Agreement shall constitute the entire agreement of the Parties and shall not be subject to any change, modification, amendment or addition without the express written consent of all Parties to the Settlement Agreement.
24. In the event any one or more of the provisions contained in this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision if the Parties mutually elect to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.
25. The Court shall retain continuing jurisdiction over the Parties and over the administration and enforcement of the Settlement Agreement and the benefits to the Plaintiffs and Settlement Class Members hereunder.

- 26. This Settlement Agreement may be executed in counterparts by the Parties or their representatives, and a facsimile or electronically transmitted signature shall be deemed an original signature for purposes of this Settlement Agreement and of equally binding force and effect.
- 27. This Settlement Agreement shall be construed under and governed by the laws of the Province of Ontario.
- 28. Whenever, under the terms of this Agreement, a person is required to provide service or written notice to the Plaintiffs, Settlement Class Members, Class Counsel or the Settling Defendants, such service or notice shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice to the other Parties in writing:

For the Plaintiffs: Paul Champ at [REDACTED]

For the Settling Defendant: Chad Eros at [REDACTED]

IN WITNESS THEREOF, the Parties hereto have executed this Settlement Agreement as follows:

Date: April 3, 2024

By: [REDACTED]
Paul Champ as Class Counsel
on behalf of the Plaintiffs and
Class Members

Date: April 3, 2024

By: [REDACTED]
Chad Eros

This is Exhibit "H" referred to in the Affidavit of [REDACTED]
Karahalios affirmed before me on this 12th day of
February, 2026.

[REDACTED]

A Commissioner for taking affidavits in the courts in Ontario

Dimitrios (Jim) Karahalios, LSO 56101S

Thursday, February 12, 2026 at 8:32:45 PM Eastern Standard Time

Subject: Re: Barber et al. ats Li et al. (CV-22-88415-CP)**Date:** Friday, February 6, 2026 at 12:17:39 PM Eastern Standard Time**From:** Andrew Burgess**To:** Paul Champ**CC:** James Manson, [REDACTED], Chris Fleury, Jim Karahalios, [REDACTED] Bird, [REDACTED] Johnson

Hi Paul,

I am writing to follow up on my previous request to you in December that you disclose *all* executed settlement agreements with any defendants or members of defendants classes in the lawsuit. While you did provide a copy of the agreement with Mr. Eros, you have never answered my question about whether there also exist any other agreements. I am not interested in mere settlement *negotiations* where nothing was signed, but am referring to any executed written agreements, whether or not you take the position that they are now void, or failed to become effective in some way. Can you please clarify in advance of the motion whether (1) the agreement with Mr. Eros is the only executed agreement that you have entered into with a defendant or member of a defendant class, (2) there have been other executed agreements, whether or not you say they are effective, void, etc., or (3) you are refusing to tell me whether there have been other executed agreements?

Thanks,

Andrew

Andrew Burgess Andrew Burgess
Professional Corporation

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On Tue, Jan 27, 2026 at 3:01 PM Paul Champ [REDACTED] wrote:

Dear Andrew et al,

I am writing with respect to your demands to know about the Plaintiffs negotiations with the individual named defendant Chad Eros. We understand our obligation to disclose settlements in class actions. In this case, it was our view that we did not have to disclose our agreement with Mr Eros until it became effective. Since Mr Eros did not meet the first term of the agreement, the entire agreement became null and void. In short, there is no settlement.

While the Plaintiffs do not believe we have an obligation to disclose in these circumstances, I have discussed with Mr Eros and he has consented to disclose the attached. This is on a without prejudice basis as we maintain that the Plaintiffs did not have an obligation to disclose until the agreement became confirmed and effective. Obviously, it is also our position that an implied undertaking also attaches to this document.

With respect to whether Mr Eros was self represented or represented by legal counsel during those negotiations, I won't comment. If you still believe that issue is relevant I can communicate further with Mr Eros.

I also wish to confirm that Mr Eros is copied here.

Paul Champ

CHAMP & ASSOCIATES | CHAMP & AVOCATS

[REDACTED]

[REDACTED]

[REDACTED]

This email is subject to legal privilege. If this message was not intended for you, please immediately delete and notify the sender. Thank you.

From: Andrew Burgess [REDACTED]
Sent: December 22, 2025 12:18 PM
To: Paul Champ [REDACTED]
Cc: James Manson [REDACTED] Chris Fleury [REDACTED] Jim Karahalios [REDACTED] Bird [REDACTED]
Subject: Barber et al. ats Li et al. (CV-22-88415-CP)

Paul,

I have recently become aware of some troubling information. I understand that, in April 2024, you executed an agreement with the self-represented defendant Chad

Eros. This agreement appears to place various obligations on Mr. Eros to cooperate with the plaintiffs that *precede* any court approval of the settlement. For instance, the agreement seems to require Mr. Eros to supply documents and an affidavit to the plaintiffs in support of their certification motion before knowing whether the proposed settlement will be approved by the court.

In my view, it is unclear whether this type of cooperation agreement is even legal. After all, how can an agreement create binding obligations on one party that must be discharged *before* the agreement becomes binding? It is doubtful that any lawyer would advise his client to enter into such an agreement, since, if the settlement is not approved, his client would be unable to *undo* the cooperation and would be hopelessly prejudiced in the ongoing litigation for having cooperated. It is therefore very concerning that you entered into this agreement with Mr. Eros while he was self-represented, given the heightened duty of fairness owed to self-represented litigants.

What is even more troubling is that you did not disclose this agreement to the other defendants. In May 2024, James Manson requested disclosure of any settlement agreements between your clients and any other defendants. You responded on May 14, 2024 that “in a class action, that information must be disclosed at an appropriate time” and this was “not an appropriate time”. What I assume you were suggesting was that the settlement agreements would be disclosed when court approval was sought. I’ll note parenthetically that an aspect of this issue may have to be determined by appellate courts, since some lower courts have held that failure to immediately disclose a settlement agreement in a class action leads to a stay (see, for example, *Ball v 1979927 Alberta Ltd*, 2024 ABKB 229, considering identical language in the Alberta CPA), whereas others have held that disclosure as part of the settlement approval process is sufficient in cases where *no aspect of the agreement predates court approval*. However, whatever the ultimate outcome of that jurisprudential debate, the case law is clear that an agreement such as the one your clients entered into with Mr. Eros *must* be disclosed immediately. For example, in *Zwaniga v. JohnVince Foods Distribution L.P.*, 2012 ONSC 3848, Justice Perrell stated that immediate disclosure of a pre-approval cooperation agreement in a proposed class action was “mandatory” and further stated that it was “*disturbing*” that the cooperation agreement in that case (as in this case) created obligations preceding any court approval of the agreement (see paras. 31-33).

Our clients intend to seek a remedy for your unlawful non-disclosure. In view of this, please immediately provide me with copies of any settlement or cooperation agreements that the plaintiffs have made with any of the defendants or any members of the proposed defendant classes in this case. Given your failure to move your own certification motion forward, our clients also intend to bring a summary judgment motion prior to the hearing of the certification motion, but I am of the view that this issue relating to your non-disclosure of at least one cooperation agreement should be addressed before the summary judgment motion.

Andrew

Andrew Burgess



 **Andrew Burgess**
Professional Corporation

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
7983794 CANADA INC., (c.o.b. as UNION: LOCAL 613) and
GEOFFREY DEVANEY**

Plaintiffs/Responding Parties

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS, CHAD
EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN,
JASON LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODY CARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC, JACOB
WELLS, HAROLD JONKER, JONKER TRUCKING INC. and BRAD HOWLAND**

Defendants/Moving Parties

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF [REDACTED] BIRD
(sworn on February 23, 2026)

I, [REDACTED] BIRD, of the [REDACTED] in the Province of [REDACTED], MAKE OATH AND SAY:

1. I am a paralegal for Charter Advocates Canada (“CAC”), and work with Messrs. James Manson and Christopher Fleury, lawyers with CAC and counsel for the defendants, Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior, Daniel Bulford, Ryan Mihilewicz,

Dale Enns, Brad Howland, Harold Jonker, Jonker Trucking Inc., and Freedom 2022 Human Rights and Freedoms (the “**Lich Defendants**”) in this matter. As such, I have personal knowledge of the matters to which I depose in this affidavit. Where my knowledge with respect to such matters is based on information and belief, I have set out the source the information and believe it to be true.

2. I am generally aware of the procedural history of this proceeding, including that the defendants (including the Lich Defendants) have brought a motion before the Court seeking a permanent stay of this proceeding.

3. The Lich Defendants’ Statement of Defence was electronically filed with the Court on February 2, 2024, and should now reside in the Court file.

4. I have reviewed the Affidavit of Belinda Karahalios, sworn on February 12, 2026 (the “**Karahalios Affidavit**”), in support of this motion. Further to her testimony at paragraph 8, I agree that on January 27, 2026, Mr. Champ wrote to the other parties in the litigation, responding to Mr. Burgess’s demand described at paragraph 7 of the Karahalios Affidavit, and attaching the Cooperation Agreement (as described in and attached as Exhibit “G” to the Karahalios Affidavit). I have been advised by Messrs. Fleury and Manson that prior to Mr. Champ’s e-mail on January 27, 2026, counsel for the plaintiffs had never provided a copy of the Cooperation Agreement to the Lich Defendants (either through counsel or otherwise), nor had counsel for the plaintiffs ever advised any of the Lich Defendants (through counsel or otherwise) that a cooperation agreement of any kind existed.

5. Further to Ms. Karahalios’s testimony at paragraph 9 of the Karahalios Affidavit, I am also advised by Messrs. Fleury and Manson that neither the Lich Defendants nor Eros have ever initiated or threatened crossclaims against one another, and that while preparing the Lich

Defendants' Statement of Defence, neither Mr. Fleury nor Mr. Manson had any knowledge that Eros had agreed to cooperate with the plaintiffs.

6. I swear this affidavit in good faith and for no improper purpose.

AFFIRMED REMOTELY by video)
conference by [redacted] Bird at the City of)
[redacted] in the Province of [redacted],)
before me at the City of [redacted],)
in the Province of Ontario)
on the 23rd day of February, 2026)
in accordance with O.Reg 431/20.)

[redacted signature block]

DARREN LEUNG
LSO# 87938Q
Barrister & Solicitor

[redacted signature block]

BIRD

LI et al.
Plaintiffs

-and- **BARBER et al.**
Defendants

Court File No. CV-22-00088514-00CP

SUPERIOR COURT OF JUSTICE
at Ottawa

AFFIDAVIT OF SELENA [REDACTED]

CHARTER ADVOCATES CANADA

[REDACTED]

James Manson (LSO# 54963K)

[REDACTED]

Christopher Fleury (LSO# 76485L)

[REDACTED]

Lawyer for the Defendants/Moving Party
Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior,
Daniel Bulford, Ryan Mihilewicz, Dale Enns, Freedom 2022 Human Rights
and Freedoms, Brad Howland, Harold Jonker and Jonker Trucking Inc.

LI et al.
Plaintiffs

-and-

BARBER et al.
Defendants

Court File No. CV-22-00088514-00CP

SUPERIOR COURT OF JUSTICE
at Ottawa

MOTION RECORD

CHARTER ADVOCATES CANADA

[REDACTED]

James Manson (LSO# 54963K)

[REDACTED]

Christopher Fleury (LSO# 76485L)

[REDACTED]

Lawyer for the Defendants/Moving Party
Tamara Lich, Tom Marazzo, Chris Barber, Sean Tiessen, Miranda Gasior,
Daniel Bulford, Ryan Mihilewicz, Dale Enns, Freedom 2022 Human Rights
and Freedoms, Brad Howland, Harold Jonker and Jonker Trucking Inc.