

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. @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
Swift Current, Saskatchewan

AND TO: Benjamin Dichter
Toronto, Ontario

AND TO: Tamara Lich
Medicine Hat, Alberta

AND TO: Patrick King
Red Deer, Alberta

AND TO: James Bauder
Alberta

AND TO: Brigitte Belton
Wallaceburg, Ontario

AND TO: Daniel Bulford
Ottawa, Ontario

AND TO: Dale Enns
Winkler, Manitoba

AND TO: Chad Eros
Moose Jaw, Saskatchewan

AND TO: Chris Garrah
Ottawa, Ontario

AND TO: Miranda Gasior
Lloydminster, Saskatchewan

AND TO: Joe Janzen
Winkler, Manitoba

AND TO: Jason LaFace
Sudbury, Ontario

AND TO: Tom Marazzo
Amherstview, Ontario

AND TO: Ryan Mihilewicz
Prince Albert, Saskatchewan

AND TO: Sean Tiessen
Grand Forks, British Columbia

AND TO: Nicholas St. Louis (a.k.a. “@NobodyCaribou”)
Ottawa, Ontario

AND TO: Freedom 2022 Human Rights and Freedoms Inc.
1493 Leeds and Grenville 2
Mallorytown, ON K0E 1R0

AND TO: GiveSendGo LLC
8 The Green Ste A
Dover, Delaware
United States of America

AND TO: Jacob Wells

Virginia Beach, Virginia
United States of America

AND TO: Harold Jonker
7728 Silver Street
Caistor Centre, ON

AND TO: Jonker Trucking Inc
7728 Silver Street
Caistor Centre, ON

AND TO: Brad Howland
659 Belleisle Road
Kars, New Brunswick

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, 2002, 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 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

Ashley Moniz Andrade

CHAMP & ASSOCIATES
Barristers and Solicitors
43 Florence Street
Ottawa, ON K2P 0W6

Per: Paul Champ
LSO: 45305K

Tel: (613) 237-4740
Fax: (613) 232-2680

pchamp@champlaw.ca

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
Equity Chambers
43 Florence Street
Ottawa, ON K2P 0W6
T: 613-237-4740
F: 613-232-2680

Per: Paul Champ
LSO#: 45305K
E: pchamp@champlaw.ca

Solicitors for the Plaintiff

**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 DELANEY**

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,
NICHLOAS 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 *Class Proceedings Act, 1992*

**STATEMENT OF DEFENCE OF THE DEFENDANTS,
CHRIS BARBER, TAMARA LICH, DANIEL BULFORD, DALE ENNS,
MIRANDA GASIOR, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, HAROLD JONKER,
JONKER TRUCKING INC. and BRAD HOWLAND**

1. Except as expressly provided below, the defendants, Chris Barber (“**Barber**”), Tamara Lich (“**Lich**”), Daniel Bulford (“**Bulford**”), Dale Enns (“**Enns**”), Miranda Gasior (“**Gasior**”), Tom Marazzo (“**Marazzo**”), Ryan Mihilewicz (“**Mihilewicz**”), Sean Tiessen (“**Tiessen**”), Freedom 2022 Human Rights and Freedoms (“**Freedom 2022 HRF**”), Harold Jonker (“**Jonker**”), Jonker Trucking Inc. (“**JTI**”) and Brad Howland (“**Howland**”) (collectively, “**These Defendants**”), deny all allegations and reject all claims for relief contained in each and every

paragraph of the Further Fresh as Amended Statement of Claim (the “**Claim**”), and put the plaintiffs to the strict proof thereof.

2. Further to the allegations at paragraphs 2-18 of the Claim, These Defendants admit that with the exception of the defendant Howland, they intended to stage a peaceful demonstration in the vicinity of the Parliament Buildings in downtown Ottawa in January and February 2022 (the “**Freedom Convoy protest**”). Their goal was to advance certain grievances to their federal political leaders through the exercise of their *Charter*-protected fundamental freedoms including freedom of expression and peaceful assembly. These Defendants reject the balance of the allegations at paragraphs 2-18 of the Claim as well as the overarching narrative that the plaintiffs attempt to set up in those paragraphs.

3. These Defendants have no knowledge of the allegations at paragraphs 19-22 of the Claim and put the plaintiffs to the strict proof thereof.

4. In response to the allegations at paragraph 23 of the Claim, These Defendants admit that the defendant Barber resides in Swift Current, Saskatchewan. He is a trucker and owns his own trucking company. These Defendants admit that Barber participated in the Freedom Convoy protest. Barber’s volunteer role after the convoy arrived in Ottawa chiefly consisted of two main activities: first, working with other protestors and the Ottawa Police Service to help ensure that (a) emergency lanes were always clear, so that emergency vehicles could respond to an emergency; and (b) protestors and citizens were generally kept safe by remaining peaceful; and second, Barber was also involved in giving media interviews and recording videos for broadcasting on social media sites.

5. In further response to the allegations at paragraph 23 of the Claim, These Defendants admit that Barber has been charged with various offences related to his participation in the Freedom

Convoy protest; however, These Defendants deny that Barber was charged for his role “in organizing and encouraging the illegal activities associated with the Freedom Convoy protest”. These Defendants reject the characterization of the Freedom Convoy protest as “illegal activities”, or that Barber encouraged any such alleged activities.

6. These Defendants have no knowledge of the allegations at paragraphs 24 of the Claim.

7. In response to the allegations at paragraph 25 of the Claim, These Defendants admit that the defendant Lich resides in Medicine Hat, Alberta, and that she was one of the organizers and spokespeople for the Freedom Convoy Protest. These Defendants deny that Lich was a “main” organizer or a “primary” spokesperson.

8. Lich is not and has never been a trucker and has never owned or operated a tractor-trailer unit anywhere, for any purpose.

9. Once in Ottawa, Lich’s role as a protestor generally focused on three main activities. First, during the first few days of the protest, Lich was part of several meetings of the volunteer finance committee, whose task it was to try to manage the public donations that were coming in to the Freedom Convoy. Second, in between volunteer finance committee meetings, Lich made efforts to handle requests from many other protestors asking for information or resources. Third, Lich also gave interviews and participated in press conferences.

10. In further response to the allegations at paragraph 25 of the Claim, These Defendants admit that the defendant Lich created the Freedom Convoy’s Facebook page in January 2022. Lich was also involved with the Freedom Convoy’s fundraising efforts, which included the creation and management of crowdfunding campaigns on the “Go Fund Me” and “GiveSendGo” online platforms.

11. In further response to the allegations at paragraph 25 of the Claim, These Defendants admit that Lich is the current President of the defendant, Freedom 2022 HRF, and was the President of Freedom 2022 HRF during the Freedom Convoy protest. Freedom 2022 HRF was incorporated during the Freedom Convoy protest as a not-for-profit corporation in order to receive and manage the substantial public donations made to the Freedom Convoy around that time.

12. In further response to the allegations at paragraph 25 of the Claim, These Defendants admit that Lich has been charged with various offences related to her participation in the Freedom Convoy protest; however, These Defendants deny that Lich was charged for her role “in organizing and encouraging the illegal activities associated with the Freedom Convoy protest”. These Defendants reject the characterization of the Freedom Convoy protest as “illegal activities”, or that Lich encouraged any such alleged activities.

13. These Defendants have no knowledge of the allegations at paragraphs 26-28 of the Claim.

14. In response to the allegations at paragraph 29 of the Claim, These Defendants admit that the defendant Bulford resides in the town of Beaverlodge, in the Province of Alberta. Bulford participated in the Freedom Convoy protest. Bulford is not a trucker and has never owned or operated a tractor-trailer truck. Rather, Bulford is a former member of the Royal Canadian Mounted Police (“**RCMP**”). He resigned from the RCMP in 2021.

15. In further response to the allegations at paragraph 29 of the Claim, These Defendants say that Bulford’s original role was to provide security for certain “VIP” individuals appearing publicly as guest speakers during the protest in Ottawa. However, that never came to pass. Ultimately, Bulford’s role came to be that of a liaison between the protest and the Ottawa Police Service, the Parliamentary Protective Service, the Ontario Provincial Police and the RCMP. Bulford’s primary function was to triage information relating to anything that might have been

construed as a threat to public safety and to forward such information to the different police organizations with whom he was in contact. Bulford was also involved in a number of press conferences during the protest.

16. In further response to the allegations at paragraph 29 of the Claim, These Defendants deny that Bulford played an “important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks”.

17. In response to the allegations at page 30 of the Claim, These Defendants admit that the defendant, Enns, resides in Winkler, Manitoba. Enns is a trucker and drove his tractor-trailer truck to Ottawa to participate in the Freedom Convoy protest. Enns was a “road captain” for part of the trip to Ottawa, meaning that he organized truckers from Manitoba who wanted to participate in peaceful protest and that would ultimately join up with the main body of the convoy as it headed east.

18. In further response to the allegations at page 30 of the Claim, These Defendants deny that Enns’s participation as a “road captain” qualifies him as an “organizer” or otherwise a “leader” of the Freedom Convoy protest in any capacity. These Defendants deny that Enns was a formal “liaison” between the convoy and Manitoba drivers at any time during the protest. Enns had no authority in Ottawa whatsoever as a “road captain”, whether in relation to Manitoba drivers or anyone else. Neither Enns nor any of the other drivers from Manitoba had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind.

19. In further response to the allegations at paragraph 30 of the Claim, These Defendants say that Enns was not involved in fundraising efforts, or with social media. Enns did attend daily meetings where he listened to updates and other news about the protest, and also attended some press conferences. He would also walk around the protest area and speak to other truckers and ask

if they needed anything. He would also assist in delivering supplies to those who did need something, and other things of that nature.

20. These Defendants have no knowledge of the allegations at paragraphs 31-32 of the Claim.

21. In response to the allegations at paragraph 33 of the Claim, These Defendants admit that at the time of the Freedom Convoy protest, the defendant Gasior resided in Lloydminster, Alberta. Gasior is not a trucker but did drive her car to Ottawa to participate in the Freedom Convoy protest.

22. In further response to the allegations at paragraph 33 of the Claim, These Defendants admit the Gasior was a “road captain” during the trip to Ottawa. Her role as “road captain” was simply to guide trucks from Lloydminster to Saskatoon, Saskatchewan, where they met up with the defendant Mihilewicz and other trucks that he had been leading from Prince Albert, Saskatchewan to Saskatoon. From there, the trucks continued to Regina, Saskatoon, to join up with the main body of the convoy heading east. These Defendants deny that Gasior’s role as a “road captain” qualifies her as an “organizer” or a “leader” of the Freedom Convoy protest. These Defendants deny that Gasior was a formal “liaison” between the convoy and Saskatchewan drivers at any time during the protest. Gasior had no authority in Ottawa whatsoever as a “road captain”, whether in relation to Saskatchewan drivers or anyone else. Neither Gasior nor any of the other drivers from Saskatchewan had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind.

23. During the protest, Gasior took it upon herself to create a “security detail”. On several nights she would travel on the streets of downtown Ottawa, at night, from around 11:00 PM to approximately 3:00 or 4:00 AM, usually in a car but sometimes on foot. Often, she was accompanied on these outings by the defendant Tiessen. No one asked or ordered Gasior or Tiessen to undertake a “security detail”.

24. During the protest, Gasior also manned the “Adopt-A-Trucker” hotline. This was a hotline telephone number that had been established by the co-defendant, Chris Garrah, as part of his “Adopt-A-Trucker” initiative. Essentially, truckers who needed things like food, transportation, fuel, equipment repairs, shelter, or other similar things were welcome to call the “hotline”. Gasior would answer the hotline. Gasior would field those calls and do her best to dispatch truckers’ requests out to whoever she believed could field them.

25. These Defendants have no knowledge of the allegations at paragraphs 34 and 35 of the Claim.

26. In response to the allegations at paragraph 36 of the Claim, These Defendants admit that the defendant, Marazzo, resides in the Brampton, in the Province of Ontario. Marazzo is not and has never been a trucker and has never owned or operated a tractor-trailer unit anywhere, for any purpose. Marazzo was unemployed at the time of the Freedom Convoy protest. He had recently been terminated in September 2021 from his employment as a part-time teacher at Georgian College, a post-secondary institution located in Barrie, Ontario. He was fired (with cause) because he disagreed with the College’s mandatory Covid-19 vaccination policy.

27. Before becoming a teacher, Marazzo’s career was in the Canadian military. He was employed as a regular, full-time member of the Canadian Forces, from 1998 to 2015. He attained the rank of Captain, but ultimately had to leave the military due to health issues related to his back. He received an honourable discharge.

28. In further response to the allegations at paragraph 36 of the Claim, These Defendants confirm that Marazzo participated in the “Freedom Convoy” protest. His role during the protest chiefly consisted of three main activities. First, Marazzo tried his best to stay in constant communication with the Ottawa Police Service and the Ontario Provincial Police and make efforts

to ensure that safety lanes were always open in the protest areas so that emergency vehicles could respond to an emergency. Second, Marazzo also worked with the truckers, the City of Ottawa and the Ottawa Police Service in a constant effort to help clear the intersection in front of the Rideau Centre shopping mall at the intersection of Rideau Street and Sussex Drive, with the goal of relocating the trucks that had blocked that intersection. Third, in a similar vein, Marazzo also worked with other truckers, the City of Ottawa and the Ottawa Police Service to try more generally to relocate trucks out of the downtown Ottawa residential areas south of Wellington Street, where the Ottawa Police Service had directed them to park.

29. In further response to the allegations at paragraph 36 of the Claim, These Defendants reject the allegations at paragraph 36 that Marazzo played an “important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks”.

30. In response to the allegations at paragraph 37 of the Claim, These Defendants agree that the defendant, Mihilewicz, resides in Prince Albert, Saskatchewan. Mihilewicz is a trucker and did drive to Ottawa to participate in the Freedom Convoy protest. However, he did not drive a tractor-trailer unit to Ottawa; rather, he drove to Ottawa in a pick-up truck.

31. In further response to the allegations at paragraph 37 of the Claim, These Defendants admit that Mihilewicz was a “road captain” for part of the trip to Ottawa. His role as “road captain” was to lead some trucks on the highway from Prince Albert, Saskatchewan, through Saskatoon and ultimately to Regina to join up with the main body of the convoy heading east. Once the Ottawa-bound trucks joined up with the larger convoy, Mihilewicz’s role was to drive to Ottawa in the rear and be on the lookout for any trucks that were having difficulties or were lagging behind or otherwise causing issues. These Defendants deny that this role meant that Mihilewicz was an “organizer” or otherwise a “leader” of the Freedom Convoy in any capacity.

32. In further response to the allegations at paragraph 37, These Defendants state that Mihilewicz was not a “liaison” between the convoy and Saskatchewan drivers at any time during the protest. Mihilewicz had no authority whatsoever as a “road captain”, whether in relation to Saskatchewan drivers or anyone else. Neither he nor any of the drivers from Saskatchewan had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind.

33. In further response to the allegations at paragraph 37, These Defendants say that Mihilewicz was not involved in fundraising efforts, or safety/security efforts. Mihilewicz did attend daily meetings where he listened to updates and other news about the protest. He also did give a few radio interviews; however, he did not participate in a meaningful way on social media.

34. In response to the allegations at paragraph 38 of the Claim, These Defendants agree that the defendant, Tiessen, resides in Grand Forks, British Columbia. In early 2022, Tiessen was an unemployed trucker. Tiessen drove to Ottawa around that time to participate in the Freedom Convoy protest. However, Tiessen did not drive a tractor-trailer unit to Ottawa; rather, he drove to Ottawa in a normal SUV vehicle.

35. In further response to the allegations at paragraph 38 of the Claim, These Defendants say that Tiessen was not involved in fundraising efforts. Tiessen did attend daily meetings where he listened to updates and other news about the protest. Tiessen also spent some time on “security detail” with the defendant, Gasior, as stated above.

36. In further response to the allegations at paragraph 38 of the Claim, These Defendants admit that Tiessen was a “road captain” on the trip to Ottawa; however, they deny that this role meant that Tiessen was an “organizer” or otherwise a “leader” of the Freedom Convoy in any meaningful capacity. Tiessen’s role as “road captain” was to organize the trucks that were joining the convoy in British Columbia. Tiessen was not a formal “liaison” between the convoy and British Columbia

drivers at any time during the protest. He had no formal authority whatsoever as a “road captain”, whether in relation to British Columbia drivers or anyone else.

37. In further response to the allegations at paragraph 38 of the Claim, neither Tiessen nor any of the drivers from British Columbia had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind.

38. These Defendants have no knowledge of the allegations at paragraph 39 of the Claim.

39. In response to the allegations at paragraph 40 of the Claim, These Defendants admit that Freedom 2022 HRF was incorporated during the protest as a not-for-profit corporation, in order to receive and manage the very substantial public donations made to the Freedom Convoy. These Defendants deny the last sentence of paragraph 40, which is no longer accurate.

40. These Defendants have no knowledge of the allegations at paragraphs 41-42 of the Claim.

41. In response to the allegations at paragraph 43 of the Claim, These Defendants deny that they or the other defendants referred to at paragraph 43 were “responsible” for the various generic activities listed therein. There were never any such “responsibilities” in the sense that either These Defendants or the other so-called “Organizer Defendants” had any definite roles to play while participating in the Freedom Convoy. There were no such roles other than supporting the exercise of Canadians’ *Charter*-protected fundamental freedoms including freedom of expression and peaceful assembly. There was never any “common design”, whether among the “Organizer Defendants” themselves or between them and any other individuals, to commit the alleged torts of private and/or public nuisance, or any other tortious conduct. Indeed, there was never any “common design”, whether among the “Organizer Defendants” themselves or between them and any other individuals, to do any of the things that are alleged by the plaintiffs to constitute a private

and/or public nuisance in this proceeding, including the use of truck horns, the production of diesel fumes as a by-product of idling truck engines, etc.

42. In further response to the allegations at paragraph 43 of the Claim, These Defendants deny that the various generic activities described at paragraph 43 of the Claim were things that they or the other so-called “Organizer Defendants” ever contemplated. For example, there was never any contemplation of “strategy” or “tactics” in the sense suggested by the plaintiffs. There was never a concerted effort by the so-called “Organizer Defendants” to direct or control other participants in the Freedom Convoy.

43. In further response to the allegations at paragraph 43 of the Claim, These Defendants state that their goal in exercising their *Charter*-protected fundamental freedoms including freedom of expression and peaceful assembly was simply for someone from the federal government to listen to them and their concerns about the ongoing Covid-19 vaccine mandates. They had been growing increasingly alarmed with the Canadian government’s Covid-19 vaccine mandates and the harm that they had been seeing them inflict on Canadians. They felt that they needed to exercise their democratic rights. They felt that this was important for Canadians who had been living under government lockdowns and restrictions for two years. Their goal was to peacefully assemble and to be express their concerns to be heard by elected and other governmental officials. They wanted to express their strong disagreement with the government’s Covid-19 vaccine mandates and other policies, and they wanted to support their fellow protestors and other Canadians who felt the same as them about the harms the government was causing. They wanted the government mandates to end and their rights respected.

44. In response to the allegations at paragraph 44 of the Claim, These Defendants admit that the defendant, Jonker, resides in West Lincoln, Ontario, and that at the time of the Freedom

Convoy protest he was also a town councillor for the Township of West Lincoln. Jonker is a trucker, and is a co-owner and co-operator of the defendant, Jonker Trucking Inc., a trucking company.

45. In further response to the allegations at paragraph 44 of the Claim, These Defendants admit that Jonker personally drove a tractor-trailer truck to the Freedom Convoy protest in Ottawa; however, they deny that there were any “tortious activities” that took place there, or that Jonker participated in any “tortious activities”. Neither Jonker nor any of the drivers from southwestern Ontario had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind. Aside from a few occasions that took place on the first day of the protest upon his arrival in Ottawa (in response to children who saw Jonker’s truck and motioned for him to honk his horn), Jonker never honked any horns during the protest.

46. In further response to the allegations at paragraph 44 of the Claim, These Defendants also confirm that Jonker was a vocal supporter of the Freedom Convoy protest, and that Jonker gave a number of media interviews while he was in Ottawa. That said, These Defendants deny that any such interviews were to “support, encourage and promote the ongoing occupation of Ottawa”.

47. In further response to the allegations at paragraph 44 of the Claim, These Defendants admit that Jonker was a “road captain” for southwestern Ontario. His role was to organize the trucks that were joining the convoy from southwestern Ontario, bound for Ottawa. The convoy of trucks that Jonker was involved with started out from Fort Erie, Ontario. During the convoy itself, Jonker tried to ensure that truckers were safe as they proceeded to Ottawa. Jonker also would communicate with the police along the way in terms of what routes to take and follow their directions.

48. In response to the allegations at paragraph 45 of the Claim, These Defendants admit that JTI is a corporation based in Ontario that owns and operates several tractor-trailer trucks, and that twelve such trucks were driven to Ottawa to take part in the Freedom Convoy protest. JTI was affected by the Covid-19 vaccine mandates that the government had recently imposed on the truckers. JTI decided not to require its employees to become vaccinated; as such, JTI could not run trucks into the United States and back due to the federal government's new regulations that came into effect in January 2022. Accordingly, JTI decided that it was important to participate in the protest as an expression of its disapproval of the government's Covid-19 policies and its support of the other protestors.

49. In further response to the allegations at paragraph 45 of the Claim, These Defendants deny that JTI's trucks were driven to Ottawa "and used to participate in the tortious activities of the Freedom Convoy protest". These Defendants deny that JTI "was aware of its trucks being used in this manner".

50. In response to the allegations at paragraph 46 of the Claim, These Defendants admit that the defendant Howland is a businessman who resides in Kars, New Brunswick. He is the President of Easy Kleen Pressure Systems Ltd. ("**Easy Kleen**"), a New Brunswick corporation, which is based in Sussex, New Brunswick.

51. In further response to the allegations at paragraph 46 of the Claim, These Defendants admit that Howland supported the goals of the Freedom Convoy and through his company donated \$75,000 USD on or about February 9, 2022 to the "GiveSendGo" fundraising campaign. However, at no time did Howland ever believe, or have reason to believe, that the Freedom Convoy's activities were "tortious" or "unlawful" at any point during the events that led to this proceeding. Howland never had any intention, at any time, to "support, encourage and facilitate" anything

tortious or unlawful in response to the Freedom Convoy's activities. Rather, Howland's intention at all times in making the donation in question was to support the peaceful goals of the Freedom Convoy protest. Howland's goal was to express support for the peaceful protestors in Ottawa and to express strong disapproval of and opposition to the federal government's Covid-19 vaccine mandates and other related policies. These Defendants deny the balance of the allegations at paragraph 46 of the Claim.

52. These Defendants deny the allegations at paragraph 47 of the Claim.

53. These Defendants deny the allegations at paragraph 48 of the Claim.

54. These Defendants deny the allegations at paragraphs 49-50 of the Claim and say further that the description of the so-called "Occupation Zone" is arbitrary and overbroad.

55. These Defendants deny the allegations at paragraphs 51-53 of the Claim and say that the proposed classes of plaintiffs (i.e. the "Resident Class", the "Business Class" and the "Employee Class") do not meet the test for certification under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6. Accordingly, this action cannot proceed as a class proceeding.

56. Furthermore, in the circumstances of this case, These Defendants say that the plaintiffs' attempt to certify the proposed classes of plaintiffs and defendants is bound to fail. Nonetheless, the plaintiffs persevere with their attempt in an effort to disproportionately and artificially overinflate the value of their claim in this proceeding. The plaintiffs' misuse of the mechanisms in the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 is so unreasonable and untenable as to amount to an abuse of process.

57. In response to the allegations at paragraph 54 of the Claim, These Defendants admit that a number of trucks were located in downtown Ottawa for the duration of the Freedom Convoy protest. As pleaded below, the trucks in question were directed park in downtown Ottawa by the

Ottawa Police Service, despite the fact that the truckers had previously been advised by the Ottawa Police Service that they would be parking outside of downtown.

58. In response to the allegations at paragraph 55 of the Claim, These Defendants admit the allegations in the first three sentences of paragraph 55 but deny the allegations in the last sentence of paragraph 55.

59. In response to the allegations at paragraph 56 of the Claim, These Defendants repeat and rely on the pleadings set out elsewhere in this Statement of Defence in response to JTI's participation in the Freedom Convoy protest. These Defendants deny the last sentence of paragraph 56 in its entirety.

60. These Defendants reject the allegations and claims made at paragraph 57-58 of the Claim.

61. In response to the allegations at paragraph 59 of the Claim, These Defendants admit that Howland was a supporter of the Freedom Convoy, and that on or about February 10, 2022 he travelled by pick-up truck to Ottawa to observe the peaceful protest. However, Howland left Ottawa on the same day that he arrived. He had no meaningful involvement in the protest itself; he merely walked around the protest area as an observer. Howland had no meaningful connection with any of the other so-called "Organizer Defendants", or with any of the other defendants, including any of the so-called "Donor Class Defendants" and "Trucker Class Defendants". These Defendants deny the last sentence of paragraph 59 in its entirety.

62. In response to the allegations at paragraph 60 of the Claim, These Defendants admit that in January 2022, the defendant Barber was in contact with the co-defendants James Bauder and Brigitte Belton. Their discussions did culminate in the idea of forming a convoy and travelling to Ottawa to stage a peaceful protest in opposition to the federal government's Covid-19 vaccine mandates. However, there was no "plan" to "cause heavy traffic with large vehicles and create

gridlock by occupying downtown Ottawa for several days”. Moreover, Barber had nothing to do with “Operation Bearhug”. That name was given to a different concept that the co-defendant Bauder had conceived of.

63. In response to the allegations at paragraph 61 of the Claim, These Defendants admit that on or about January 11, 2022, Barber and the co-defendants James Bauder and Brigitte Belton came into contact with the co-defendant Pat King and asked for his help in publicizing the Freedom Convoy protest idea.

64. These Defendants have no knowledge of the allegations at paragraph 62 of the Claim.

65. These Defendants generally admit the allegations at paragraphs 63-68 of the Claim.

66. These Defendants have no knowledge of the allegations at paragraphs 69-71 of the Claim.

67. In response to the allegations at paragraph 72 of the Claim, These Defendants reject the notion that they, along with any of the other so-called “Organizer Defendants”, “decided” that “the plan was to occupy downtown Ottawa for an indefinite period of time until their political demands were met”. These Defendants deny entirely the third sentence of paragraph 72. There was never any such “common intention” as described in that sentence.

68. In response to the allegations at paragraph 73 of the Claim, These Defendants generally agree that by January 21, 2022, or about that date, the GoFundMe fundraising campaign had received approximately \$1 million in donations. These Defendants have no knowledge of whether this fundraising result “persuaded many of the Trucker Class Defendants to join the Freedom Convoy and travel to Ottawa”.

69. In response to the allegations at paragraph 74 of the Claim, These Defendants deny that they and other so-called “Organizer Defendants” had a “common plan” to “seriously interfere with the rights of the class members”.

70. In response to the allegations at paragraphs 75 and 76 of the Claim, These Defendants generally admit that they and other so-called Organizer Defendants did connect in some ways and at some times to more effectively communicate (a) their opposition to government Covid vaccine mandates and (b) their desire for the government to listen to their concerns; to help support the needs of their fellow protestors; and to work to ensure that the protest remained peaceful. However, These Defendants deny that those efforts resulted in any kind of formal hierarchy, organization or “central command” that would go on to control and direct the Freedom Convoy in any appreciable way.

71. These Defendants generally admit the allegations in paragraph 77 of the Claim subject to the following clarification. Along with others, Lich prepared a Code of Conduct and registration form. Barber was not involved with the preparation of either document. The registration form was created to facilitate providing funds to Freedom Convoy protest participants in an organized manner. The Code of Conduct was created to ensure that participants would engage in peaceful protest and follow the directions of the police. The intention was that people who violated the Code of Conduct would not receive funds, in an effort to help ensure that protesters remained peaceful and respectful.

72. In response to the allegations at paragraph 78 of the Claim, These Defendants agree that the Freedom Convoy departed from British Columbia on or about January 23, 2022. Lich joined the convoy in Alberta on or about January 24, 2022 and travelled to Ottawa by riding with Chris Barber in his tractor-trailer truck.

73. In response to the allegations at paragraph 79 of the Claim, again, These Defendants admit that Tiessen acted in a limited manner as a “road captain”, meaning that he organized the trucks and vehicles that formed the bulk of the convoy beginning in British Columbia, heading east.

74. In response to the allegations at paragraph 80 of the Claim, These Defendants admit that Gasior acted in a limited manner as a “road captain”, meaning that she led some trucks from Lloydminster to Regina, whereupon trucks then joined the main convoy and continued to Ottawa.

75. In further response to the allegations at paragraph 80 of the Claim, These Defendants deny that Gasior owns or maintains a Facebook page called “Saskatchewan Citizens Uncensored”, nor has she ever owned or maintained such a page.

76. In response to the allegations at paragraph 81 of the Claim, These Defendants admit that Mihilewicz acted in a limited manner as a “road captain”, meaning that he led some trucks from Prince Albert to Regina, whereupon a few of them joined the main convoy and continued to Ottawa.

77. In response to the allegations at paragraph 82 of the Claim, These Defendants admit that Enns acted in a limited manner as a “road captain”, meaning that he helped organize trucks from Manitoba that joined the main convoy as it passed through Brandon and Winnipeg and continued to Ottawa.

78. These Defendants have no knowledge of the allegations at paragraph 83 of the Claim.

79. These Defendants generally admit the allegations at paragraph 84 of the Claim.

80. These Defendants deny the allegations at paragraphs 85-86 of the Claim in their entirety.

81. In response to the allegations at paragraphs 87-89 of the Claim, These Defendants agree that Freedom Convoy trucks began to arrive in Ottawa around January 28, 2022. However, These Defendants reject the allegation that Freedom Convoy vehicles “congregated and began to block streets around Parliament Hill and in the surrounding neighbourhoods”, “as planned” by the defendants. These Defendants further reject the allegation that this was in any way a “plan” by the

so-called Organizer Defendants, or any other defendants, to “‘gridlock’ downtown Ottawa”. There was no such “plan”.

82. On the contrary, none of the defendants in this proceeding had originally expected to park any Freedom Convoy vehicles on the streets of downtown Ottawa. Rather, everyone had been expecting that Freedom Convoy vehicles would park in “staging areas” selected by the Ottawa Police Service located away from residential downtown Ottawa, and that shuttles or other forms of transportation would ferry protestors from those staging areas to Parliament Hill for peaceful assembly. Those staging areas were lengthy designated stretches of Sir John A. MacDonald Parkway (to the west of downtown) and Sir George Etienne Cartier Parkway (to the east of downtown), which collectively were able to accommodate approximately 2,500 tractor-trailer units. A third staging area was located on Wellington St., in front of the Parliament Buildings, which was able to accommodate only a small number of trucks (i.e. less than 40 trucks).

83. These Defendants say that the Ottawa Police Service provided maps and instructions on where trucks should park and what routes they should take to arrive at the various staging locations. This was a plan that had been communicated to the protestors by the Ottawa Police Service before trucks began to arrive in Ottawa. All protestors including the defendants in this proceeding were expecting to adhere to the police plan.

84. However, as trucks started to arrive in Ottawa, the police changed the plan. These Defendants have no knowledge as to why the police changed the plan. Rather than guiding trucks to the various agreed-upon staging areas, Ottawa Police Service vehicles instead led trucks to the downtown core and directed them to park all over downtown Ottawa. As required pursuant to section 134(1) of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, protestors followed the directions of the Ottawa Police Service (or other authorities) and parked their trucks as directed. None of the

defendants ever had the intention to park downtown, near residences, in order to disturb Ottawa residents.

85. Moreover, These Defendants say that once the trucks were parked downtown, no one subsequently ordered any trucks to move or relocate to a different part of the city until the protest ended weeks later, after the federal government declared a public order emergency.

86. In response to the allegations at paragraph 88 of the Claim, These Defendants deny that Jonker parked his tractor-trailer truck on Wellington Street, as alleged. Rather, These Defendants say that as Jonker was heading to Ottawa, he, like the other defendants, was expecting to receive instructions from the Ottawa Police Service about where he was supposed to park his truck. Ultimately, Ottawa Police Service officers directed Jonker to park in downtown Ottawa – not at one of the “staging areas” located outside of downtown. Jonker and the other JTI trucks (except one, that ended up parking on Wellington Street near Parliament) were directed to park on Queen Elizabeth Driveway in single file along the Rideau Canal in what appeared to be a residential area, which they did. It is unknown why the Ottawa Police Service directed Jonker and other JTI vehicles to park downtown and not at a “staging area”, as planned.

87. Owing to the fact that they were located in a residential area, These Defendants say that Jonker was concerned about where he and the other JTI trucks were parked. Jonker did not want to bother the residents in that neighbourhood. Accordingly, after staying at that location for a few hours, Jonker asked a police officer nearby if he and the other JTI trucks could relocate to a parking lot area that was to become known as “Coventry”. The police officer gave Jonker permission to move the trucks there, and so that is what they did. The truck located on Wellington Street stayed on Wellington Street, however.

88. Jonker's own JTI truck remained at the Coventry location until he personally moved it to another yard (known as "Yard 88") located outside the City of Ottawa several days later. The remaining JTI trucks that had relocated with Jonker to the Coventry location did not remain at the Coventry location for the duration of the protest, but rather would move around from time to time to other locations in the protest area. Jonker was, however, not in control over, and did not direct, where those trucks went on any given day, or how long they stayed there, or what the drivers of those trucks did at those times.

89. In response to the allegations at paragraph 90 of the Claim, These Defendants have no knowledge of the allegations in the first two sentences of paragraph 90 and deny the allegations in the last sentence.

90. These Defendants have no knowledge of the allegations at paragraphs 91-92 of the Claim.

91. These Defendants generally admit the allegations at paragraph 93 of the Claim.

92. In response to the allegations at paragraph 94 of the Claim, These Defendants admit that vehicles were located in downtown Ottawa during the Freedom Convoy protest. These Defendants have no knowledge of the precise allegations at paragraph 94 and put the plaintiffs to the strict proof thereof.

93. In response to the allegations at paragraph 95 of the Claim, These Defendants deny that the Freedom Convoy vehicles constituted a "blockade", or that it was "impossible" or "almost impossible" for other vehicles to pass through the downtown Ottawa core.

94. In response to the allegations at paragraph 96 of the Claim, These Defendants admit that some of the "Organizer Defendants" would deliver various supplies to protestor truck drivers from time to time. However, Tiessen did not do so. These Defendants deny that "the trucks remained running all day and night".

95. These Defendants deny the allegations at paragraph 97 of the Claim in their entirety.

96. In response to the allegations at paragraphs 98-99 of the Claim, These Defendants admit that, broadly speaking, a staging area for the Freedom Convoy protest was set up that came to be known as “Coventry”. However, These Defendants reject all of the precise allegations in these paragraphs, including the allegation that they were in any way directly responsible for the establishment of the “Coventry” location. The “Coventry” staging area was not selected by the protestors. Rather, it was selected by the Ottawa Police Service as an “overflow” location for use by the protestors, and it was the Ottawa Police Service that directed trucks to that location.

97. In further response to the allegations at paragraphs 98-99 of the Claim, These Defendants say that there was never any coordinated effort on behalf of Bulford and Marazzo to manage or coordinate the logistics at the “Coventry” staging area in any way. People at “Coventry” did not take instructions from either Bulford or Marazzo in any way.

98. In response to the allegations at paragraph 100 of the Claim, These Defendants admit that on at least one occasion, Lich and Barber visited the Coventry location to visit the protestors who were there. However, neither Lich nor Barber had anything to do with the “Coventry” location in any meaningful way.

99. In response to the allegations at paragraphs 101-109 of the Claim, These Defendants agree that, from time to time, they and/or the other so-called Organizer Defendants would communicate with other protestors through various social media channels, meet daily at various hotels in downtown Ottawa to discuss various issues related to the protest in general, and hold regular press conferences. These Defendants also admit that a telephone “hotline” was created for protestors so they could call with immediate needs or concerns. These Defendants, however, deny all specific allegations at paragraphs 101-109, including the allegations that these activities were in any way

part of a “common design” on the part of any of the defendants, as alleged in the Claim. These Defendants also reject the characterization of the Freedom Convoy protest as an “occupation”.

100. In response to the allegations at paragraphs 110-118 of the Claim, These Defendants admit that there were many instances where Freedom Convoy protestors honked the horns of many of the tractor-trailer units that were located in downtown Ottawa during the protest. However, These Defendants deny all the specific allegations in these paragraphs, including the allegations to the effect that the honking of horns was a “main tactic” that was part of any “common design” on the part of any of the defendants. Neither These Defendants nor any of the other so-called Organizer Defendants ever “planned, organized, encouraged and directed” anyone to “blast the horns on their vehicles, non-stop, for several hours every day”. These Defendants reject the allegation that they had any authority to do so, or that any of the other protestors would have followed any such instructions. These Defendants also reject the allegation that any horns in fact were being honked “non-stop, for several hours every day”.

101. In response to the allegations at paragraphs 119-142 of the Claim, These Defendants admit that the Freedom Convoy protest did receive a large amount of donations through the “Go Fund Me” and “GiveSendGo” online platforms, from donors across Canada and beyond. However, These Defendants deny the balance of the specific allegations and reject all claims contained at paragraphs 119-142.

102. These Defendants deny all allegations at paragraphs 143-151 of the Claim, or anywhere in the Claim, that any of the activities associated with the Freedom Convoy protest were in any way illegal or tortious.

103. In response to the allegations at paragraphs 152-162 of the Claim, These Defendants agree that Justice Maclean granted an interim injunction in this proceeding on February 7, 2022, which

was then extended on February 16, 2022, on an interlocutory basis for a further 60 days. These Defendants deny all other specific allegations in these paragraphs.

104. In response to the allegations at paragraphs 163-173 of the Claim, These Defendants generally admit that the various declarations of emergency referred to in these paragraphs were issued, and that Lich and Barber have been charged with various offences related to their participation in the Freedom Convoy protest. These Defendants deny all other specific allegations in these paragraphs, including that the various declarations were issued “given the ongoing harm to resident, businesses and employees in downtown Ottawa”.

105. These Defendants deny the allegations at paragraphs 174-223 of the Claim and put the plaintiffs to the strict proof thereof.

106. In response to the allegations at paragraphs at paragraphs 224-228 of the Claim, These Defendants deny all allegations and deny that their actions or omissions, or those of any of the defendants, constituted a private nuisance at any time, and put the plaintiffs to the strict proof thereof. In particular, the plaintiffs have failed to even identify which of These Defendants, or any of the defendants, are alleged to have actually caused a private nuisance against any plaintiff or plaintiffs.

107. In response to the allegations at paragraphs at paragraphs 229-235 of the Claim, These Defendants deny all allegations and deny that their actions or omissions, or those of any of the defendants, constituted a public nuisance at any time, and put the plaintiffs to the strict proof thereof. In particular, the plaintiffs have failed to even identify which of These Defendants, or any of the defendants, are alleged to have actually caused a public nuisance against any plaintiff or plaintiffs.

108. In response to the allegations at paragraphs 236-241, These Defendants deny that the plaintiffs have sustained or will sustain the damages or losses described in the Claim and put the plaintiffs to the strict proof thereof.

109. Further, if the plaintiffs sustained the damages and losses as alleged in the Claim, which is not admitted but specifically denied, such damages and losses were not caused by, and did not occur as a result of, any wrongdoing, private nuisance, public nuisance or other tortious conduct on These Defendants' part. Any such damages and losses were caused by the failure of the Ottawa Police Service to ensure that Freedom Convoy vehicles did not park in downtown Ottawa at the beginning of the protest, as originally planned. These Defendants plead and rely on the doctrine of *novus actus interveniens* as part of their defence.

110. Further, These Defendants plead that any damages or losses claimed by the plaintiffs, which are not admitted but specifically denied, are too remote, excessive, and arise as a result of the plaintiffs' failure, refusal and neglect to take all reasonable, prudent and proper steps to mitigate their damages.

111. Further, or in the alternative, These Defendants state that any damages or losses suffered by the plaintiffs, which are not admitted but specifically denied, were beyond their control.

112. Further, or in the alternative, These Defendants plead that if the plaintiffs sustained any damages or losses, which is not admitted but specifically denied, then such damages or losses were the result of the conduct of the Ottawa Police Service in failing to ensure that Freedom Convoy vehicles did not park in downtown Ottawa at the beginning of the protest, as originally planned, and are therefore not These Defendants' fault.

113. These Defendants plead and rely on the relevant provisions of the *Highway Traffic Act*, R.S.O. 1990, c. H.9 (in particular, section 134(1) thereof) and the *Class Proceedings Act*, 1992, S.O. 1992, c. 6.

114. These Defendants propose that this action be tried at a location other than Ottawa.

August 25, 2023

CHARTER ADVOCATES CANADA
c/o 2929-130 Adelaide Street West
Toronto, ON M5H 3P5

James Manson (LSO# 54963K)

T: (416) 977-5354
E: jmanson@charteradvocates.ca

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

TO: CHAMP & ASSOCIATES
43 Florence Street
Ottawa, ON K2P 0W6

Paul Champ (LSO# 45305K)

Tel: 613-237-4740
E: pchamp@champlaw.ca

Counsel for the Plaintiffs

AND TO: JIM KARAHALIOS PROFESSIONAL CORPORATION
P.O. Box 28009 Cambridge RPO
Preston, ON N3H 5N4

Dimitrios (Jim) Karahalios (LSO# 56101S)

T: 519-498-3082
E: jim@karahalios.law

NAYMARK LAW
171 John Suite, Suite 101
Toronto, ON M5T 1X3

Daniel Z. Naymark (LSO# 56889G)

T: 416-640-6078
E: dnaymark@naymarklaw.com

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

AND TO: OVERWATER BAUER LAW
2-583 Main Street
Winkler, MB R6W 1A4

Shelley Overwater

T: 204-325-5594
E: shelley@overwaterlaw.com

**Counsel for the Defendants, Patrick King
And Joe Janzen**

AND TO: CHAD EROS
Moose Jaw, Saskatchewan

E: chaderos@proton.me

Defendant

ZEXI LI. ET AL.
PLAINTIFFS

-and-

CHRIS BARBER ET AL.
DEFENDANTS

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA

STATEMENT OF DEFENCE

CHARTER ADVOCATES CANADA
c/o 2929-130 Adelaide Street West
Toronto, ON M5H 3P5

James Manson (LSO# 54963K)

T: (647) 977-5354

E: jmanson@charteradvocates.ca

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

CITATION: Li et al. v. Barber et al.
COURT FILE NO.: CV-22-88514-CP
DATE: 2025 07 31

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the *Class Proceedings Act, 1992*

RE: 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,
NICHLOAS 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

BEFORE: C. MacLeod RSJ

COUNSEL: **Paul Champ** for the Plaintiffs

James Manson & Christopher Fleury for the Defendants, Lich, Barber, Marazzo,
Tiessen, Gasior, Bulford, Enns, Mihilewicz, Howland, Jonker, Jonker Trucking
Inc. and Freedom 2022 Human Rights and Freedoms and as agent for **Shelley
Overwater** for the Defendants King & Janzen

Dimitrios Karahalios & Andrew Burgess, for the defendants Dichter, Garrah, St.
Louis, Belton, Wells and GiveSendGo LLP

HEARD: July 31, 2025

CASE MANAGEMENT ORDER & DIRECTION

[1] A case conference took place this morning with a view to establishing a timetable and fixing the date for the certification motion. In this case, the plaintiff seeks the usual certification on behalf of classes of plaintiffs pursuant to s. 2 of the Act but also seeks establishment of defendant classes and representative defendants pursuant to s. 4 of the Act.¹

¹ *Class Proceedings Act, 1992*, S.O. 1992, c. 6 as amended

[2] In the discussion this morning, although all parties hope that the certification motion may be argued in two days, it was agreed it would be prudent to schedule a three day hearing. It also seems wise to set aside a date to argue motions in case there are issues arising from cross examination on affidavits, examination of witnesses in aid of the motion or other procedural issues.

[3] As a courtesy, counsel for the plaintiff shall send a copy of this endorsement to counsel for the Attorney General of Ontario who, although not a party to the action, has an interest in the funds that are frozen and held in escrow.

[4] **The court therefore orders and directs as follows:**

- a) Unless otherwise ordered, the certification motion will be returnable on July 7th, 2026 and will proceed on July 7th, 8th and if necessary July 9th, 2026.
- b) Although a motion of this nature is presumptively to be heard in person in Ottawa, counsel may request that the motion proceed virtually by videoconference or proceed as a hybrid hearing.
- c) The parties shall adhere to the following timetable:
 - i) The plaintiffs shall serve a notice of motion and draft order by August 7th, 2025 and shall serve the certification record by September 15, 2025.
 - ii) The defendants shall have until December 19th, 2025 to serve their responding records.
 - iii) All cross examinations on affidavits or examination of witnesses (if any) shall be completed by February 14, 2026.
 - iv) If any issues arise from the examinations and a motion or motions are required, those motions shall be heard on March 11, 2026.
 - v) The plaintiff shall serve a compendium and factum by April 10, 2026.
 - vi) The defendants shall serve responding factums and compendia (if necessary) no later than June 5, 2026.
- d) All material for use on the motion shall be filed with the court in the normal manner as required by the Rules and shall also be uploaded to Case Center.
- e) In the event that further direction is required, the parties may request a case conference by contacting my office.

- f) This order constitutes a timetable pursuant to Rule 3, a case management order pursuant to Rule 50.13 and an order pursuant to s. 12 of the *Class Proceedings Act*. It is effective without further formality.

Justice C. MacLeod

Date: July 31, 2025

SUPERIOR COURT OF JUSTICE – ONTARIO

Proceeding under the Class Proceedings Act, 1992

RE: 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,
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NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
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58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, Madison Robins, Sarah Bittman and Jessica Kras, as agents
for Paul Champ, Counsel, for the Plaintiff

HEARD: February 17, 2022

ENDORSEMENT

For reasons to be released subsequently, I have granted two orders on a motion without notice.

Firstly, I have granted an order to amend the statement of claim and add parties. The title of the proceedings is now as set out above.

Secondly, I have granted a temporary *ex parte* Mareva Injunction. The motion will be returnable on notice to the named defendants and upon the Attorneys General of Ontario and Canada on February 28, 2022 at 10:00 a.m. by videoconference.

Orders to go as signed. Counsel for the plaintiff is to arrange for the fresh as amended statement of claim to be issued forthwith and it is to be served along with the orders and the motion material on the named defendants by regular service or by the means set out in the order.

February 17, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1351
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/02/28

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

RE: 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 JANSEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
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53, JOHN DOE 54, JOHN DOE 55, JOHN DOE 56, JOHN DOE 57, JOHN DOE
58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for the Plaintiffs

Norman Groot, for the Mareva defendants Dichter, Lich, Garrah, St. Louis and
Freedom 2022 Human Rights and Freedoms

Geoff Hall & Leah Ostler for the Toronto Dominion Bank

Melissa Adams, for the Attorney General of Ontario

HEARD: February 28, 2022

ENDORSEMENT

[1] On February 17, 2022, I granted an *ex parte* Mareva injunction. Reasons were released on February 22, 2022. (2022 ONSC 1176). As set out in that decision, the purpose of a Mareva injunction is to restrain the dissipation of assets to which a plaintiff may have a claim. A motion without notice is justified only if it appears that such dissipation of assets is imminent. Such an order can only be made on a temporary basis until the parties that are affected have an opportunity to respond and to be heard.

[2] The injunction was scheduled to expire today unless it was renewed. The plaintiffs brought the necessary motion for such an extension. In response, affidavits were filed by Tamara Lich and four individuals who live in downtown Ottawa and/or attended and supported the Freedom Convoy events in downtown Ottawa (Messrs. Gagne, Bulford, McKinney & Renaud).

[3] Affidavits were also sworn by an investigator (Daina Slenys) and by Mr. Dichter, Mr. Garrah and Mr. St. Louis. The latter were in support of a proposal to transfer funds held by each of those parties to an escrow fund as a term of adjourning the motion. That proposal was put forward by Mr. Groot who has been retained by the Mareva defendants except for Patrick King (who is currently in custody and did not appear today). This resulted in agreement to a brief extension of the order with slightly modified terms and to postponing certain disclosure and examinations under oath contemplated by the original order.

[4] Mr. Bobby Kofman, President of the proposed escrow agent attended to advise that the terms of the proposed order were satisfactory and KSV Advisory Inc. is prepared to act as escrow agent.

[5] Counsel for the Attorney General of Ontario appeared to advise that the Attorney General has no objection to the transfer of these funds to an escrow agent. The funds in question do not appear to be funds subject to the Restraint Order granted by Associate Chief Justice McWatt pursuant to the *Criminal Code* but in any event will be held by the escrow agent until further order of the court.

[6] Counsel for the TD Bank appeared because the bank holds certain funds that may be caught by either the restraint order or the Mareva injunction or both. The Bank intends to bring an interpleader motion to pay those funds into court. Counsel for the Bank does not oppose the order sought today.

[7] There was some discussion about whether the plaintiff would be required to bring a new motion on the return date. I agree with counsel for the plaintiff that it is not necessary to do so. I can adjourn the motion before the court today to the new return date on terms. Those terms are the temporary extension and modification of the Mareva injunction as set out in the consent order. The motion will therefore be adjourned until March 9, 2022, at 2:00 p.m. It will continue as a virtual hearing on the Zoom videoconference platform.

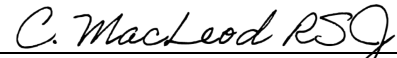
[8] I reiterate that this court proceeding is concerned with potential civil liability for the organizers, funders and participants in the Freedom Convoy to residents, businesses and employees in central Ottawa who were adversely affected. It is independent and separate from any of the criminal processes that may be underway.

[9] The injunction is concerned with preservation of assets that may be available to provide compensation if compensation is ultimately ordered.

[10] I will reserve further comment until the motion returns before the court on March 9.

[11] **This court therefore orders and directs as follows:**

- a. This motion is adjourned to March 9, 2022, at 2:00 p.m. to continue by way of videoconference on the Zoom platform provided by the court.
- b. On consent, and without prejudice to the rights of the parties, the Mareva injunction is extended and varied as set out in the formal order signed by me today.
- c. Costs of today, if any, are reserved to the hearing of the motion.



Mr. Justice C. MacLeod

Date: February 28, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1351
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/02/28

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: 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
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JOHN DOE 58, JOHN DOE 59, JOHN
DOE 60, JANE DOE 1 and JANE DOE
2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for
the Plaintiffs

Norman Groot, for the Mareva
defendants Dichter, Lich, Garrah, St.
Louis and Freedom 2022 Human Rights
and Freedoms

Geoff Hall & Leah Ostler for the Toronto
Dominion Bank

Melissa Adams, for the Attorney General
of Ontario

ENDORSEMENT

Regional Senior. Justice C. MacLeod

Released: February 28, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1543
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/03/10

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

RE: 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,
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NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
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58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for the Plaintiffs

Norman Groot, for the Mareva defendants Dichter, Lich, Garrah, St. Louis and
Freedom 2022 Human Rights and Freedoms

Geoff Hall & Leah Ostler for the Toronto Dominion Bank

Melissa Adams, for the Attorney General of Ontario (Crown Law Office
Criminal)

Susan Keenan, for the Attorney General of Ontario (Crown Law Office Civil)

Jacob Wells (in person) for GiveSendGo LLC

HEARD: March 9, 2022

ENDORSEMENT

[1] On February 17, 2022, I granted an *ex parte* Mareva injunction. Reasons were released on February 22, 2022 (2022 ONSC 1176). On February 28, 2022, I heard a motion to extend the Mareva Injunction which was adjourned to today on terms (2022 ONSC 1351).

[2] The terms of the adjournment included an extension and modification of the order, the establishment of an escrow fund and transfer of certain assets to the Escrow Agent. The escrow fund was proposed by certain of the Mareva defendants and had the intended effect of putting the funds in question under court control pending further determination.

Matters Before the Court

[3] The motion to extend the Mareva injunction was returnable today. I was also asked to deal with the following motions:

- a. A motion by the plaintiffs to amend the fresh as amended statement of claim. The proposed amendments add the request for a Mareva Injunction to the prayer for relief and add particulars to the damages allegedly suffered by the proposed business class and employee class.
- b. A motion by the TD Bank to add funds held by the Bank to the funds held by the escrow agent (as an alternative to paying funds into court). This duplicates relief sought in an application brought on the Commercial List (Toronto Court File No. CV-22-676865-00CL) on February 14, 2022.
- c. A motion brought by the defendants to lift the Mareva Injunction in relation to certain of the defendants and to convert the order to a preservation order over the funds held by the escrow agent. The defendants also seek clarification and direction in relation to cryptocurrency seized by the police subsequent to my order of February 28, 2022 and relates in part to the restraint order granted by Associate Chief Justice McWatt in a proceeding brought by the Attorney General of Ontario under the *Criminal Code* (Ottawa Court file no. 22-13355MO) and they seek a modification of the restraint order.
- d. The defendants move to dissolve the Mareva Injunction or to set a date to argue the question. The defendants also seek costs against various parties.
- e. There is a request – although no formal motion – that the court direct GiveSendGo to transfer certain funds it is holding to the escrow agent.

f. The Royal Bank of Canada seeks direction to pay funds to the escrow agent.

[4] By way of preliminary comment, it is important that the proposed class proceeding not become a vehicle for omnibus motions dealing with various matters that are before the court in other forms and with different parties. There may well be virtue in having a single judge deal with related matters, but that does not mean the parties can ignore those other proceedings or act as if they have been consolidated. Where I have made orders dealing with other proceedings than the class proceeding currently before me, it is the duty of counsel to ensure the record in each of those proceedings is complete.

Extension of the Mareva Injunction

[5] The Mareva Defendants – at least those that are represented – intend to transfer all of the disputed funds and cryptocurrency in their possession or control to the Escrow Agent so that they need no longer be subject to the Mareva Injunction. This they propose to do without prejudice to their right to argue that the injunction should never have been granted or sought. In the meantime, I have extended the injunction subject to the modifications and clarifications the parties have agreed upon. I have given counsel until 4:00 tomorrow afternoon to settle the form of the order and scheduled a case conference to finalize it.

[6] I have further adjourned the motion to extend the injunction and the motion to dissolve the injunction to March 31, 2022, at 2:00 p.m.

Pleading Amendment Motion

[7] The motion to amend the pleading will be opposed by the Mareva Defendants. This is because the original pleading did not contain the request for injunctive relief. The defendants therefore argue that the proposed amendment in the face of their motion to dissolve the injunction is prejudicial. I have adjourned the pleading amendment motion to March 31 at 2:00 p.m. as well.

TD Interpleader Motion

[8] With respect to the TD interpleader motion, it is on consent, and it is an efficient use of court time to deal with it now. TD holds approximately \$1.3 million in funds deposited from funds raised by the Freedom Convoy Campaign. Those funds may, in part, be funds to which the Mareva injunction applies and, in part, may be funds captured by the Restraint Order. I note that the Restraint Order obtained by Ms. Adams on behalf of the Attorney General of Ontario is an order pursuant to the *Criminal Code* which seeks to freeze property that may have been used for a criminal purpose. This is not, in and of itself, a forfeiture proceeding.

[9] Ms. Keenan who also acts for the Attorney General, but on the civil side, advises that the Attorney General will be bringing forfeiture proceedings under the *Civil Remedies Act, 2001*. (S.O. 2001, c. 28). That proceeding has not yet been commenced, but the TD funds may be one of its targets.

[10] The Attorney General asks that a term of the interpleader order be that the Attorney General be given notice of any motion or other proceeding seeking to release these funds from escrow. I consider that reasonable, but I do not believe the Attorney General requires 30 days notice. 21 days notice should suffice.

[11] TD is prepared to discontinue the Commercial List application, but it will not be necessary to take that step. I communicated with the Toronto RSJ and the Team Lead for the Commercial List earlier today. The order will be granted pursuant to the notice of motion in the class proceedings action. The Commercial List application will be stayed.

Funds seized from Mr. St Louis by the police

[12] According to the affidavit of Mr. St. Louis, following the previous hearing, he was about to transfer cryptocurrency to the Escrow Agent when police officers operating under a search warrant raided his home and compelled him to surrender the cryptocurrency keys to the police.

[13] I am advised by counsel for the Attorney General that the police have now transferred the cryptocurrency keys to the Escrow Agent so that the order issued by this court will have been put into effect.

[14] The defendants take issue with the propriety of police seizing funds that were the subject of the court order shortly after a hearing at which counsel for the Attorney General was present. This may be an issue to be dealt with on a subsequent occasion as the defendant seeks costs against the Attorney General. No order appears necessary today.

Amendment to the Restraint Order

[15] Besides the TD funds mentioned above, there are funds held by the Royal Bank in accounts belonging to Mr. Garrah. Mr. Garrah acknowledges that one of those bank accounts was opened solely to collect funds or to receive funds from a fund-raising platform. He is prepared to release those funds to the Escrow Agent. Other funds in other bank accounts were not the target of the injunction.

[16] Counsel for the Attorney General agrees there should be a minor amendment to the Restraint Order granted by McWatt, ACJ. It appears that the amendment is on consent, I will grant it. I have communicated with the Associate Chief Justice and she has no objection to my dealing with the matter, but it will have to be an order made in the *Criminal Code* proceeding (which is an Ottawa file as shown above.)

Position of GiveSendGo LLC

[17] GiveSendGo LLC is a corporation with its head office in Delaware. It is a fund-raising platform. It is not a party to this proceeding. Mr. Wells appeared today as he was put on notice of the hearing by counsel for the Mareva Defendants.

[18] I am advised by Mr. Groot and by Mr. Wells that the defendant Freedom 2022 Human Rights and Freedoms was to have been a recipient of funds raised on the GiveSendGo platform, but it did not open a bank account to receive the funds prior to the granting of the injunction. As a consequence, the funds were never transferred. Mr. Wells advises that GiveSendGo is now returning those funds to the donors.

[19] Ms. Jilesen takes the position that GiveSendGo is in breach of the injunction by taking this step. Ms. Adams also takes the position that GiveSendGo is in breach of the restraint order.

[20] The question of a breach of the restraint order is not before the court today.

[21] As set out in my original reasons, the funds which the Mareva Injunction intended to preserve were funds that were, at the time, in the possession or control of the Mareva Defendants and therefore potentially exigible property if the plaintiffs are successful in this proceeding. I indicated that I did not view property that was held by a fund-raising platform and had not been distributed as falling within that class.

[22] Ms. Jilesen asked that I not rule definitively on that question today without the benefit of further affidavit material and a formal motion. In her submission, funds that were to have been distributed to Freedom 2022 as soon as it opened a bank account are its property and should fall into the class of assets to which the injunction attached. She argued that the question of whether GiveSendGo is in breach of the Mareva Injunction or whether Freedom 2022 is in breach by not taking the steps necessary to receive the funds should be questions for another day. I agree.

[23] There is no motion for contempt before the court and no motion to expand the scope of the injunction. If the plaintiffs wish to bring such motions for relief against either GiveSendGo or Freedom 2022, they may do so.

[24] For the moment, although Mr. Wells was present and is aware of the position of counsel for the plaintiffs (and counsel for the Attorney General) there is nothing for his company to formally respond to.

Summary & Conclusion

[25] The Mareva Injunction is extended with modifications and terms to be set out in an order which I will finalize tomorrow afternoon. The extension is until the end of the day on March 31, 2022.

[26] The motion to dissolve the injunction, the motion to extend the injunction and the motion to amend the statement of claim are adjourned to March 31, 2022, at 2:00 p.m.

[27] The interpleader motion brought by TD is granted with the provision for notice to the Attorney General. The Commercial List application is stayed.

[28] The Mareva defendants are to continue their efforts to comply with the modified order by moving funds and cryptocurrency to the Escrow Agent.

[29] If an amendment to the Restraint Order is necessary to deal with certain of the funds to be paid to the Escrow Agent, I will sign the necessary amending order.

[30] Costs of today, if any, are reserved to the return of the various motions mentioned above.

Regional Senior Justice C. MacLeod

Date: March 10, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1543
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/03/10

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: 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
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LAFACE, TOM MARAZZO, RYAN
MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a.
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FREEDOM 2022 HUMAN RIGHTS
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2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for
the Plaintiffs

Norman Groot, for the Mareva
defendants Dichter, Lich, Garrah, St.
Louis and Freedom 2022 Human Rights
and Freedoms

Geoff Hall & Leah Ostler for the Toronto
Dominion Bank

Melissa Adams, for the Attorney General
of Ontario

ENDORSEMENT

Regional Senior. Justice C. MacLeod

Released: March 10, 2022

CITATION: Li et al. v. Barber et al., 2022 ONSC 2038
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/04/01

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

RE: 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,
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NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU), FREEDOM 2022
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58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen as agent for Paul Champ, for the Plaintiffs

Norman Groot, for the Mareva defendants Dichter, Lich, Garrah, St. Louis and
Freedom 2022 Human Rights and Freedoms

No one appearing for Patrick King

Melissa Adams, for the Attorney General of Ontario (Crown Law Office
Criminal)

Susan Keenan, for the Attorney General of Ontario (Crown Law Office Civil)

Iris Fischer for non-party Stripe Canada Payments Services Ltd.

HEARD: March 31, 2022

ENDORSEMENT

[1] This was scheduled for continuation of a motion by the plaintiffs to extend the Mareva Injunction originally granted without notice and also a continuation of the motion by certain of the Mareva defendants to dissolve the injunction. There are other matters before the court adjourned from the last appearance on March 9, 2022. In addition, I have been provided with a report from the Escrow agent appointed under the previous court orders on February 28, 2022, and March 9, 2022.

[2] The plaintiffs ask for a further adjournment and extension of the existing order. This is due to the fact that additional voluminous motion material was served on the plaintiffs earlier this week. The plaintiffs wish to review that material, respond to it and potentially to conduct cross examinations on the affidavits.

[3] The defendants oppose the adjournment request although Mr. Groot acknowledged that there was considerable material to review and his clients would not be shocked if the adjournment was granted. He did not object to the proposed terms of the extension order if the court saw fit to grant the adjournment. I believe the request is reasonable so I adjourned the motions and granted the extensions. All of the matters before the court today were adjourned to May 2, 2022, at 10:00 a.m.

[4] Ms. Kennan advised that the Attorney General of Ontario had commenced a forfeiture application pursuant to the *Civil Remedies Act, 2001* (Court file CV-22-88888). I am advised that the application is not intended to affect assets that are ultimately found to be subject to a civil judgment in favour of the class members.

[5] I also inquired about the status of the action itself. At this point there are no defences and nothing has been done by class counsel to obtain a date for a certification order. There are obviously a large number of unidentified defendants that have not yet been served.

[6] In conclusion, all matters before the court today have been adjourned to May 2, 2022, at 10:00 a.m. I have signed the order extending the current injunction. Although the courts are in the process of a gradual return to in-person hearings, all parties present are in agreement that it is more efficient to proceed by way of a virtual hearing. The hearing will therefore continue by videoconference.

Regional Senior Justice C. MacLeod

Date: April 1, 2022

CITATION: Li et al. v. Barber et al., 2022 ONSC 2038
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/04/01

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: ZEXI LI, HAPPY GOAT COFFEE
COMPANY INC, 7983794
CANADA INC. (c.o.b. as
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GEOFFREY DEVANEY, Plaintiffs

AND:

CHRIS BARBER, BENJAMIN
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2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen & Paul Champ, for
the Plaintiffs

Norman Groot, for the Mareva
defendants Dichter, Lich, Garrah, St.
Louis and Freedom 2022 Human Rights
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No one appearing for Patrick King

Melissa Adams, for the Attorney General
of Ontario (Crown Law Office Criminal)

Susan Keenan, for the Attorney General
of Ontario (Crown Law Office Civil)

Iris Fischer for non-party stakeholder

ENDORSEMENT

Regional Senior. Justice C. MacLeod

Released: April 1, 2022

CITATION: Li et al. v. Barber et al., 2022 ONSC 2662
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/05/02

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

RE: 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,
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58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen & Paul Champ, for the Plaintiffs

Norman Groot, for the Mareva defendants Dichter, Lich, Garrah, St. Louis and
Freedom 2022 Human Rights and Freedoms

No one appearing for Patrick King

Melissa Adams, for the Attorney General of Ontario

Iris Fischer for non-party Stripe Canada Payments Services Ltd.

HEARD: May 2, 2022

ENDORSEMENT

[1] This was the return of competing motions that were last before the court on March 31, 2022. (2022 ONSC 2038). Those were motions to extend the Mareva Injunction originally granted without notice on February 17, 2022 and a motion by the Mareva defendants to dissolve the injunction.

[2] Today I was advised that the parties have reached an agreement. Essentially, as Mr. Groot describes it, the injunction will be dissolved upon transfer of remaining funds to the escrow agent and the order will become a preservation order. The funds will be held in escrow pending the determination of this proceeding or further court order. I was presented with an approved form of order which I have reviewed and signed.

[3] It should be noted that Patrick King, who is currently in detention, has never appeared in this proceeding, is not represented by counsel and is not part of the agreement. He is however one of the defendants targeted by the Mareva order and therefore the original order remains in place in relation to Mr. King. As Mr. King is represented by criminal counsel, I am directing that this matter be brought to the attention of his counsel since the order signed today extends the Mareva order against Mr. King until further order of the court. Mr. King is at liberty to bring a motion to vary or dissolve the injunction as it affects him should he wish to do so.

[4] Certain of the funds held in escrow are also subject to the restraint order, obtained independently by the Attorney General of Ontario pursuant to s. 490.8 of the *Criminal Code of Canada*. That section permits the Attorney General to obtain an order freezing “offence related property” and the order was granted by Associate Chief Justice McWatt on February 10, 2022 (Court file no. 22-13355MO). I had previously granted an order varying the restraint order to permit the transfer of funds to the escrow agent. The parties have reached a further agreement with the Crown in respect of the Mareva funds and I have signed that further amendment.

[5] The conversion of the injunction to a preservation order means that it is far less intrusive or disruptive to the individual Mareva defendants than was the original injunction. It should be noted, however, that as a consequence of the agreements between the parties, there has never been a contested adjudication concerning whether or not a Mareva injunction was appropriate in this context. The facts presented to the court at the time of the *ex parte* interim interim injunction I found to support the granting of that order on a temporary basis but all of the subsequent extensions and variations have been either terms of adjournment or have been negotiated between the parties. I say that not to be critical. To the contrary, I commend counsel for conducting the litigation efficiently and arriving at a practical solution. But it is important to record the fact that neither the extension of the interim interim order nor the dissolution of the original order have been fully argued.

[6] It should also be observed that this injunction was granted in the context of a proposed class proceeding. A class proceeding is a procedural device authorized by statute which allows the court to effectively bundle together what would otherwise be individual actions on behalf of numerous parties with similar claims. The point to be emphasised is that a class proceeding does

not create substantive rights. Each of the individual named plaintiffs and each member of the class or classes must have a cause of action that could be pursued separately. Although the original order was not dependant on the likelihood of certification, it would be of significant concern if the plaintiffs do not move the matter forward expeditiously. Potential damages in individual actions would be minor in comparison to the collective damages that might be the result of a successful class proceeding.

[7] I am assured by Mr. Champ that much work has been done behind the scenes and he expects to be in a position shortly to deal with identification of remaining defendants, service on those defendants, the possibility of defendant classes and scheduling of the certification motion. I will continue to be the Class Proceedings Judge assigned to this matter. The parties may obtain a date for a case conference to discuss scheduling and other matters.

[8] The court therefore directs as follows:

- a. The order varying the injunction order and providing for continuation of the escrow fund may issue as signed.
- b. The order varying the restraint order may issue as signed.
- c. The plaintiffs are to schedule a case conference with me to schedule the date for the certification motion and any other steps in this proceeding within 90 days.

Date: May 2, 2022

Regional Senior Justice C. MacLeod

CITATION: Li et al. v. Barber et al., 2022 ONSC 2662
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/05/02

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: ZEXI LI, HAPPY GOAT COFFEE
COMPANY INC, 7983794
CANADA INC. (c.o.b. as
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GEOFFREY DEVANEY, Plaintiffs

AND:

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2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen & Paul Champ, for
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Norman Groot, for the Mareva
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No one appearing for Patrick King

Melissa Adams, for the Attorney General
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Iris Fischer for non-party stakeholder

ENDORSEMENT

Regional Senior. Justice C. MacLeod

Released: May 2, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/09/02

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

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

AND:

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58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Paul Champ and Christine Johnson, for the Plaintiffs

Norman Groot & Ashley Ferguson for the Mareva defendants Dichter, Lich,
Garrah, St. Louis and Freedom 2022 Human Rights and Freedoms and as agent
for Keith Wilson.

Melissa Adams and Susan Keenan, for the Attorney General of Ontario

HEARD: September 2nd, 2022

CASE CONFERENCE ORDER AND DIRECTION

[1] This case conference was requested by counsel for the plaintiff to establish a timetable leading up to a certification motion. It is important to note that this is a proposed class proceeding in which the pleadings are in flux. Although there has been much activity surrounding the injunction motion and the freezing of funds, no defendant has yet delivered a defence and many of the defendants have not yet been served.

[2] I also note that during the course of the injunction motions and the resolution which resulted in the frozen funds being placed in the hands of an escrow agent, this matter became entwined (for that purpose only) with proceedings by the Attorney General under both the Criminal Code and the civil forfeiture legislation. Consequently, while the Attorney General is not a party to the proposed class proceeding as such, the Attorney General of Ontario has a continuing interest in any order dealing with the frozen funds.

[3] Mr. Champ has proposed a further set of amendments to the statement of claim. In the absence of any defence, certain amendments may be made as of right pursuant to Rule 26.02 (a) but an amendment which proposes to add, delete or substitute parties requires court approval pursuant to Rule 5.04 (2). Besides adding and deleting defendants, the plaintiff now wishes to name certain defendants as defendant class representatives pursuant to s. 4 of the Act. It is certainly possible that a defendant class or classes will be appropriate in this case and may be preferable to naming individual participants in the protest as defendants. I am not persuaded that it would be appropriate to simply take that step by amending the title of the proceedings without at least giving notice to the proposed class representatives.

[4] The statutory language and the limited jurisprudence available on this point indicate that may well be an efficient way to proceed, and the court has authority to compel an unwilling defendant to act as a class representative in certain circumstances.¹ Rule 10 and Rule 12 may also have application. While I agree that the question of whether a defendant class will be certified would ultimately be a question to be determined at the certification motion itself, I would not permit the plaintiff to single out certain named defendants as representative defendants in a pleading amendment without putting those individuals on notice.

[5] After discussion it was decided that as several parties and counsel are involved with the Public Order Emergency Commission chaired by the Honourable Paul Rouleau, the pleading amendment motion would be scheduled to take place after the commission has concluded its

¹ See *Sutherland v. Hudsons Bay Company*, (2005) 17 C.P.C. (6th) 199, 74 O.R. (3d) 608 (SCJ), *Berry v. Pulley*, (2001) 197 D.L.R. (4th) 317 (Ont.SCJ) and *Witham v. FCA Canada Inc.*, 2018 ONSC 7703 as examples.

hearings. Accordingly, I fixed November 3rd, 2022 as the date for argument. The deadline for defending the action will be extended until after that motion is argued and the date for a certification motion will be established once it is apparent which parties will be defending and what counsel are involved.

[6] Besides this issue, Mr. Groot advised that as agent for Mr. Wilson he wished to advise that one of the defendants would be seeking an urgent motion to release certain funds from escrow in order to obtain legal representation before the Rouleau commission where it has been granted standing. I am of the view that such a motion will not be urgent unless the moving party can demonstrate that it has first exhausted the possibility of obtaining funding through the Commission. I am advised there is a process to apply for funding but the party had missed the deadline. It is not clear if the Commission can or would waive the deadline and grant such funding. There is also the possibility of a remedy before the Federal Court if such funding is refused.

[7] I agreed to hold a further case conference to consider the question of urgency once Mr. Groot has been able to discuss the matter further with the moving party. I also note that such a motion will require notice to the Attorney General of Ontario due to the mixed nature of the escrow funds. Counsel for Crown Law Office Civil and Criminal were present today but advised that my previous order erroneously referred to the Attorney General for Canada.

[8] In summary, the Court orders and directs as follows:

- a) The motion to amend the pleadings and add, delete or substitute parties shall be brought on notice returnable on November 3rd, 2022. A full day is set aside for argument. Counsel are to confer and are to agree on a timetable for the exchange of material and any necessary cross examinations.
- b) There will be a further case conference to obtain direction regarding the proposed emergency motion. That will be a videoconference on September 8th, 2022 at 9:00 a.m. Counsel need not gown for the case conference.
- c) The time for defending this action is extended to a date to be set following the pleading amendment motion. This is not a bar to any party filing a notice of intent to defend in order to designate a lawyer of record.
- d) The time for serving and filing the certification motion record pursuant to s. 29.1 of the Act is extended to a date to be set following the pleading amendment motion and this order shall be deemed to be an order for the completion of one or more steps required to advance the proceeding pursuant to s. 29.1 (c).
- e) Any motion in this proceeding seeking to access, disburse or otherwise deal with the escrow funds shall be on notice to the Attorney General for Ontario.

- f) This order is effective without further formality. It is a case management order pursuant to Rule 50.13, a timetable pursuant to Rule 3 and an order pursuant to s. 12 of the Act.

Regional Senior Justice C. MacLeod

Date: September 2nd, 2022

Facsimile Cover Sheet

Fr: ~~TO:~~ Moose Jaw Court of King's Bench

Company:

Phone: 306-694-3602

Fax: 306-694-3056

Our File:

TO: ~~From:~~ Scott Hopley

Company: Gerrand Rath Johnson
700 - 1914 Hamilton Street
Regina, SK, S4P 3N6

Phone: (306)-522-3030

Fax: (306)-522-3555

Date March 1, 2023

**Pages including this
cover page:** 17

COMMENTS: Please find attached and file Amended Statement of Claim for
KBG-MJ-00029-2023 Please file and return a copy marked filed. Thank you!

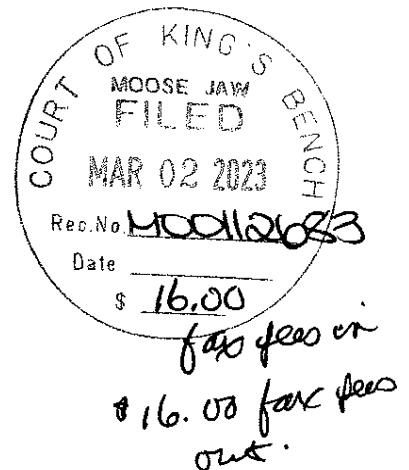
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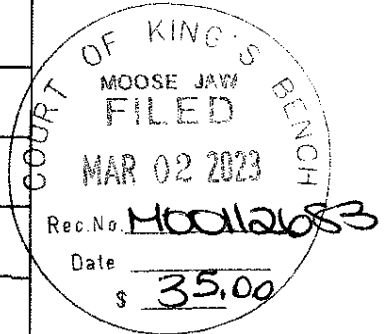
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COURT FILE NUMBER	KBG -MJ- 00029 - 2023
COURT OF KING'S BENCH FOR SASKATCHEWAN	
JUDICIAL CENTRE	MOOSE JAW
PLAINTIFFS	CHAD EROS
DEFENDANTS	KEITH WILSON, EVA CHIPIUK, JUSTICE CENTER FOR CONSTITUTIONAL FREEDOMS



NOTICE TO DEFENDANT

1. The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The King's Bench Rules* unless, in accordance with paragraph 2, you:
 - (a) serve a Statement of Defence on the plaintiff; and
 - (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.
2. The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):
 - (a) 20 days if you were served in Saskatchewan;
 - (b) 30 days if you were served elsewhere in Canada or in the United States of America;
 - (c) 40 days if you were served outside Canada and the United States of America.
3. In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.
4. This Statement of Claim is to be served within 6 months from the date on which it is issued.
5. This Statement of Claim is issued at the above-named judicial centre on the "28th" day of February, 2023.

DATED at "Moose Jaw", Saskatchewan, this "28th" day of February 2023.

"V. VACHON"
Deputy to Local Registrar

This Statement of Claim has been amended pursuant to The Queen's Bench Rules 3-72(1)(a) on this 1st day of March, 2023.

AMENDED STATEMENT OF CLAIM

1. The Plaintiff, Chad Eros (Chad), is a chartered profession accountant (CPA) and he resides in Moose Jaw, Saskatchewan.
2. The Defendant, Keith Wilson, is a lawyer and he resides at or near St Albert, Alberta.
3. The Defendant, Eva Chipiuk, is a lawyer and she resides at or near Edmonton, Alberta
4. The Defendant, Justice Centre for Constitutional Freedoms (JCCF), is a body corporate incorporated pursuant to the *Canada Not – for – Profit Corporations Act* S.C. 2009, c.-23.
5. In late 2021, a number of individuals began planning a cross country demonstration, a truckers' convoy, to object to government-imposed measures made in relation to the Covid pandemic. The convoy demonstration was to be against government-imposed restrictions on mobility, employment, and personal health decisions.
6. A group of 8-12 people, including Chris Garrah, Tamara Lich, and Chris Barber started meeting in an online chat group. Tamara Lich organized a finance committee whose purpose was to fundraise and generate funds to reimburse truckers' travel expenses incurred during participation in the proposed trucker convoy to Ottawa.
7. The finance committee and Tamara Lich started a crowd sourced fundraiser on the Go Fund Me LLC (GoFundMe) crowd sourcing platform. GoFundMe was the service provider collecting donations for the recipient trustee who would distribute the donations to the intended beneficiaries.
8. On or about January 24, 2022, Chad was contacted by Chris Garrah. Mr. Garrah requested that Chad assist the finance committee in communicating with GoFundMe. Chad provided the

finance committee with a proposed use of funds and distribution of funds plan. Communication continued with GoFundMe seeking the release of funds.

9. On or about January 29, 2022, Chad communicated with a number of individuals interested in the beginning a different funding initiative with the Givesendgo LLC (GiveSendGo) crowd sourcing platform.

10. On January 30, 2022, Chad incorporated Freedom 2022 Human Rights and Freedoms Inc. (Freedom 2022) pursuant to the *Canada Not – for – Profit Corporations Act*. Chad concluded a not-for-profit corporation would be necessary for the transparent and accountable distribution of donated funds for the lawful intended purposes.

11. Following the initial request from Chris Garrah for assistance facilitating the release and deposit of donated funds, Chad had numerous conversations with individuals wanting to assist the trucker convoy participants through fund raising. Chad states there was no single or unitary organization either starting or continuing the trucker convoy or the protest in Ottawa.

12. Chad had discussions with Ms. Lich, and others including the Defendants, about the creation of a corporate structure to provide for an accountable and transparent method of receiving and distributing donations for the intended lawful purposes.

13. On February 1, 2022, Chad joined a zoom call with Ms. Lich and several people including lawyers from the JCCF and Keith Wilson who identified himself as subcontracted to the JCCF on the “Peckford” litigation. Mr. Wilson asserted the convoy protestors needed legal representation.

14. Mr. Wilson asked Ms. Lich to arrange and pay for a flight to bring himself and other JCCF lawyers to Ottawa. A chartered flight was arranged for a number of lawyers to travel to Ottawa to meet with Ms. Lich and other trucker convoy organizers.

15. On February 2, 2022, the day of the flight, Ms. Lich requested that Chad come to Ottawa to assist her in dealing with the funds donated to the crowd sourced funding platforms. The amounts donated were at that point in the several millions of dollars. Ms. Lich expressed that she was overwhelmed and not trusting the people seeking access to those funds.

16. Chad travelled to Ottawa from Regina on this chartered flight. JCCF staff lawyers, Eva Chipiuk, Andre Memari, and Alison Pejovick were on the flight as were Keith Wilson and Tim Turple. Mr. Wilson and Mr. Turple are lawyers in private practice, present on the flight as part of the JCCF group. Mr. Wilson carries on the practise of law as the Wilson Law Office.

17. By February 1, 2022, Chad engaged in discussions with the lawyers about the efforts he was undertaking for the initial finance committee to obtain the release of the GoFundMe donated funds. Chad provided the lawyers with draft correspondence to GoFundMe that he had prepared.

18. Chad's correspondence was not sent. Different correspondence was prepared for Ms. Lich by the JCCF lawyers and was sent to GoFundMe. Subsequently GoFundMe announced it was cancelling the fundraising and would return all donations to the donors.

19. On February 3, 2022, Chad, for Freedom 2022 and others including Ms. Lich, entered into an agreement with the JCCF and the Wilson Law Office to be represented by the JCCF and Mr. Wilson in the matter of the 2022 Freedom truckers' convoy in Ottawa (the February 3 Agreement). The cost of the legal services to the clients was agreed to be paid by the JCCF in return for the full cooperation of the clients with the JCCF fundraising efforts including allowing the JCCF to use the clients' story and the events which transpired causing the clients to seek legal assistance. In addition, Keith Wilson agreed, that in the event that costs were awarded against the clients at the conclusion of any court action, court application or other proceeding, Wilson Law Office would be responsible for and pay those costs.

20. Chad states that on February 2 and February 3, 2022, the JCCF and Mr. Wilson aggressively pursued Chad and others associated with the crowd sourced funding initiatives as clients, expressing that Chad, Freedom 2022 and others including Ms. Lich were in immediate need of legal representation and that the JCCF and Mr. Wilson were the lawyers best positioned to provide that representation. Ms. Chipiuk was identified as the ~~lead~~ lead JCCF lawyer for the Ottawa protest matters.

21. By February 3, 2022, Mr. Wilson and Ms. Chipiuk were providing Chad with legal advice with respect to his activities in Ottawa in relation to his role with Freedom 2022 and generally with respect to his presence in Ottawa supporting the vaccine mandates protest activities.

22. On February 4, 2022, a proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c.6, was issued on behalf of the named Plaintiffs Zexi Li, Happy Goat Coffee Company Inc, 798394 Canada Inc. and Geoffrey Devaney (Court file No: CV-22-00088514-00CP) in the Ontario Superior Court of Justice against Tamara Lich, Chris Barber and others (the Class Action). The Class Action alleges, among other causes of action, nuisance due to the intrusive noise from the protest and the size and activities of the protest. A Mareva Injunction application was filed concurrently.

23. The Class Action did not initially include either Freedom 2022 or Chad as defendants.

24. Chad states that when he initially incorporated Freedom 2022, his intention was to have an available non-profit corporation which organizers could use to lawfully receive and distribute donated funds to the intended recipients. Chad states he did not incorporate Freedom 2022 with the intention of becoming involved as an organizer of the convoy protest activity nor did he intend to remain as a Director.

25. Chad states that there were a number of meetings between February 4 and February 7, 2022 to create an organizational structure for Freedom 2022, to have bylaws drafted and to have a new Board of Directors appointed. Chad states he was encouraged by JCCF lawyers, because Chad was a CPA, to remain on the Board and to be the Treasurer.

26. On February 7, 2022, a new Board of Freedom 2022 was formed.

27. JCCF lawyers, including Ms. Chipiuk and Mr. Wilson, were involved in reviewing bylaws and preparing the list of members and in recommending and identifying Directors named in the amendment made on February 7, 2022.

28. Prior to agreeing to remain on the Board of Freedom 2022 and to agreeing to be Treasurer, Chad states he received no caution or advice from either Ms. Chipiuk or Mr. Wilson as to the risk associated with remaining on the Board of Freedom 2022.

29. Prior to agreeing to remain on the Board and as Treasurer, Chad states he received no advice from either Mr. Wilson or Ms. Chipiuk about any limitations on the freedom of speech, freedom of association or limitations on lawful protest nor did he receive any advice about potential civil liability to area businesses or area residents arising from noise or of claims for public or private nuisance.

30. Chad states that Mr. Wilson and Ms. Chipiuk repeatedly advised Chad that the protest activities of the protesters were lawful. Chad also understood their advice to be that there was an unlimited protected right under the *Canadian Charter of Rights and Freedoms*, enacted as Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.) to carry on nonviolent political protest.

31. Based on request and encouragement from lawyers from the JCCF, Chad agreed to remain on the Board and to be the Treasurer.

32. As Treasurer, Chad continued efforts to obtain the release of funds donated to the GiveSendGo platform intending that those funds be distributed for the intended lawful purposes in a transparent and accountable fashion.

33. No funds from GiveSendGo were ever released to Freedom 2022 ~~with the exception of a single donation used to open a bank account.~~ Freedom 2022 never received any donated funds from any source with the exception of a single donation used to open a bank account. Chad did advise others involved in activities supporting the protesters. Chad indicated that individuals accepting donations from people attending the protest, needed to be accountable with respect to those donations, including recording the amount of donations received and recording the amount and the recipient of donated funds disbursed to truckers.

33. Chad agreed to be on the Finance Committee for Freedom 2022. Mr. Wilson and Ms. Chipiuk agreed to be placed on the Legal Committee of Freedom 2022. Mr. Wilson and Ms. Chipiuk were also on the Drafting Committee. This Committee formed to draft a document that would describe the Freedom Convoy's overall demands of all governments and the way forward strategy.

34. The Class Action was amended on or about February 18, 2022, adding Freedom 2022, Chad and, others as Defendants.

35. Chad states that he, the other Directors and other members of committees undertook activities to support the protesters and Chad continued to be advised by Mr. Wilson and Ms. Chipiuk that all of the activities being undertaken by Chad and Freedom 2022 were lawful.

36. Chad states that on more than one occasion Mr. Wilson engaged in protest activities including making and publishing YouTube and Tik Tok videos which encouraged more protesters to come to Ottawa to join in a broad political protest against the federal government.

37. Subsequent to Freedom 2022 and Chad being added as Defendants to the Class Action Mr. Wilson identified himself as counsel for Freedom 2022 and Chad.

38. The JCCF and Mr. Wilson required Chad and Freedom 2022 to abide by the JCCF fundraising narrative to support the JCCF in its efforts to fund raise using the Freedom 2022 label and the personal narratives of the clients.

39. Chad states that when he became aware that the consent order vacating the Mareva Injunction provided an amount for payment of legal fees to their counsel from the seized GiveSendGo funds, Chad complained to Mr. Wilson and the JCCF stating the agreement was that all their legal fees were to be paid by the JCCF.

40. Chad states after raising this complaint, and others, Mr. Wilson began to marginalize Chad with other Board members including asserting that Chad was a troublemaker.

41. On February 24, 2022, the Board replaced Ms. Lich and Mr. Barber as President and Vice President of Freedom 2022. Chad began to occupy the position of Acting Co-President and he continued to be the Treasurer of Freedom 2022.

42. In March, 2022, there were discussions between the JCCF, Mr. Wilson and the represented defendants in the Class Action about entering into a new retainer agreement. This new agreement (the Class Action Agreement) was expressly to provide representation in the Class Action, to be

paid for by the JCCF in return for the clients/defendants assisting in JCCF fundraising efforts. This agreement replaced the February 3 Agreement. The Class Action Agreement did not include the term that Wilson Law office would pay any costs award against the clients/defendants resulting from an adverse court finding.

43. Chad states the Class Action Agreement was controversial among the clients/defendants. Chad states he was the first to indicate in writing that he accepted the new retainer, both personally and for Freedom 2022. Chad further stated he supported maintaining the relationship with both Mr. Wilson and the JCCF.

44. After Mr. Wilson reminded all clients to return the signed agreement, Chad states on May 10, 2022, that he sent to Mr. Wilson two separate emails, one entitled Freedom 2022 Retainer and one entitled Chad Eros Retainer. Subsequently Chad discovered he had mistakenly sent the signed Freedom 2022 retainer as the attachment to both emails. Regardless, Mr. Wilson continued to represent Chad and never advised Chad the signed Chad Eros retainer was not attached to the Chad Eros Retainer email.

45. On May 19, 2022, Ms. Lich made an application to amend her judicial interim release conditions. The application was not successful.

46. Chad states his concerns over the fundraising activities of the JCCF and Mr. Wilson continuing to involve Ms. Lich caused him to resign as Acting Co-President on May 19, 2022.

47. On June 5, 2022, after being informed by the Board that he was not allowed to ask his and the Board's lawyers questions about contracts, representation, or payments from frozen funds, Chad resigned as Treasurer and from the Board.

48. Notwithstanding Chad's resignation as both Acting Co-President and as Treasurer and as a Director of Freedom 2022, Chad remained a member of Freedom 2022. Mr. Wilson continued to represent him on matters related to the truckers' convoy protest and Mr. Wilson continued to represent Chad in the Class Action. Chad understood Mr. Wilson would seek standing for Chad in the Public Order Emergency Commission of Inquiry (the Inquiry) along with the other protest organizers represented by Mr. Wilson.

49. Chad states he was never advised by Mr. Wilson or anyone from the JCCF that Mr. Wilson did not include Chad among those for whom Mr. Wilson pursued a successful standing application at the Inquiry.

50. Mr. Wilson incorrectly stated that the inability of Freedom 2022 to provide the Inquiry with requested financial information was the failure of Chad to prepare financial records as the paid accountant.

51. Chad states he was never the accountant, the bookkeeper, nor an employee of Freedom 2022. Further, Chad states Freedom 2022 never received any donations, income nor had any assets. While Chad was the Treasurer for Freedom 2022, there were never financial statements to have prepared. Freedom 2022 never received any donations, income, had no assets nor expenses to report. Mr. Wilson and the lawyers retained for the Mareva Injunction application had prepared and filed Chad's affidavits for the application in which Chad asserted Freedom 2022 had never actually received any funds, other than one \$10,000 donation used to open a bank account, which funds were then in the possession of Mr. Garrah and could be paid into escrow.

52. Chad states on June 14, 2022, request was made to the JCCF, in correspondence also copied to Mr. Wilson, for counsel for Chad other than Mr. Wilson due to a possible diversion of interests across joint clients and that JCCF should continue to pay for Chad's counsel.

53. Chad states that he was invited by the Board of Freedom 2022 to return to the Board of Directors and the Board voted to reinstate him at a video conference Board meeting on August 2, 2022.

54. Chad denies that Mr. Wilson advised Chad that he no longer represented Chad. In August 4, 2022 correspondence, the JCCF declined to fund separate counsel for Chad in relation to the Class Action.

55. On August 26, 2022, Chad states that Mr. Wilson organized, encouraged and orchestrated a motion of the Board of Freedom 2022 to remove Chad and Chris Garrah as Directors of Freedom 2022 and to expel Chad and Mr. Garrah as members.

56. Chad states Mr. Wilson repeatedly assured Chad that the Class Action had no prospect of ever being certified and that it would inevitably collapse. Chad received no other advice nor written opinions from Mr. Wilson or from JCCF lawyers assisting Mr. Wilson as to the litigation risks or any analysis of the Plaintiffs' claims. Chad is unaware of Mr. Wilson undertaking any steps to gather evidence, interview clients, interview potential witnesses or do anything to begin preparation for defending the claim, other than suggesting to Chad that delay would eventually cause the Plaintiffs to abandon the claim.

57. Chad states he remains a defendant in the Class Action in which the Plaintiffs are seeking \$410,000,000 in damages.

Claim in Negligence

58. Chad states that the Defendants Mr. Wilson and Ms. Chipiuk began providing him with legal advice and each owed him a duty of care.

59. The solicitor-client relationship with Mr. Wilson and Ms. Chipiuk and Chad in relation to Chad's activities connected to the Ottawa protest began during the initial flight to Ottawa.

60. Chad states that at the request of the initial finance committee formed in conjunction with the GoFundMe fundraising that Chad prepared correspondence to GoFundMe requesting to release of the donated funds.

61. Chad incorporated Freedom 2022 and was one its two Directors. Chad signed the February 3 Agreement with the JCCF and Mr. Wilson on February 3, 2022. The February 3 Agreement was subsequently replaced with the Class Action Agreement. Chad states that from no later than February 3, 2022, Chad personally and in his capacity as Director of Freedom 2022 was a client of and in a solicitor-client relationship with, each of Mr. Wilson and Ms. Chipiuk.

62. Chad states that Mr. Wilson and Ms. Chipiuk each breached the duty owed to him and were negligent in the advice provided to him, particulars of which include, but are not limited to, the following:

- a. Mr. Wilson and Ms. Chipiuk assured Chad that the protest activity ongoing was entirely legal and that the *Canadian Charter of Rights and Freedoms* provided unlimited protection of the right to protest;
- b. Mr. Wilson and Ms. Chipiuk failed to provide timely or any advice to Chad that participating in the public protest or aiding protesters in the public protest activity could possibly expose Chad to criminal or quasi criminal charges;
- c. Mr. Wilson and Ms. Chipiuk reviewed an internal JCCF memo which warned of considerable risk of criminal charges being laid against protestors and yet they failed to advise Chad of this memo and failed to provide advice in a timely way;
- d. Mr. Wilson and Ms. Chipiuk failed to provide Chad with any advice or caution as to the potential of being named in a civil proceeding or of potential civil liability as a participant by either organizing or providing support to the public protest activity;
- e. Despite the issuance of the Class Action February 4, 2022, Mr. Wilson and Ms. Chipiuk provided no advice or caution to Chad as to the risks of continuing on the new Freedom 2022 Board of Directors, about going forward the efforts to obtain the release of funds donated through GiveSendGo or of the risk associated with agreeing to be the Treasurer of Freedom 2022.

63. Despite Chad's express reluctance to remain on the Board of Freedom 2022 or to act as an officer, the encouragement of JCCF lawyers and the negligent advice of Mr. Wilson and Ms. Chipiuk caused Chad to engage in activity which has resulted in Chad being named in the Class Action and suffering loss and damage, in amounts that will be proven at trial.

64. At all material times Ms. Chipiuk was an employee of the JCCF and Chad states that the JCCF is vicariously liable for the negligence and damage caused by its employee, Ms. Chipiuk.

65. In addition, Chad states the Mr. Wilson breached the duty he owed Chad during Mr. Wilson's representation of Chad as a Defendant in the Class Action the particulars of which include but are not limited to:

- a. Advising Chad that the class action was without merit, would never be certified and that no steps need to be taken to prepare a defence of the claim;
- b. Failing to take steps to prepare a defence, interview witnesses, properly assess and advise of risks, or to investigate or advise Chad of potential conflicts critical to the joint representation of multiple clients;
- c. In advising and representing Chad in the litigation in circumstances of conflict of interest across clients and in circumstances where Mr. Wilson was a participant as a committee member for Freedom 2022 activity, and by acting against Chad's interests.

66. As a result of these additional instances of negligence, Chad has suffered and will continue to suffer loss and damage, in amounts that will be proven at trial.

Breach of Fiduciary Duty

67. In the alternative and in addition Chad states that Mr. Wilson, in agreeing to represent Chad in his personal capacity and in his capacity as a Board member and officer of Freedom 2022, Mr. Wilson owed Chad a fiduciary duty. Regardless of Chad's personal support for opposition to the government-imposed vaccine mandates, the Ottawa protest activity was not something Chad had experience with either professionally as a CPA or in his personal life. Chad states he was particularly reliant upon and vulnerable to Mr. Wilson for advice and direction. Chad states that Mr. Wilson breached that fiduciary duty, particulars of which included but are not limited to:

- a. Encouraging Chad to enter into an agreement with the JCCF and Mr. Wilson by including a term that Mr. Wilson would personally pay any legal costs award made against Freedom 2022 or other clients.

- b. Representing Chad despite divergence of interests between Chad and other clients of Mr. Wilson in the Class Action and despite a conflict between Chad's interests and Mr. Wilson's interests;
- c. Failing to provide advice independent of Mr. Wilson's personal interest as to the legal situation Chad was in or could be entering into and rather promoting Mr. Wilson's own political interest in the continuation and expansion of the protest;
- d. In negotiating and recommending that Chad enter into the Class Action Agreement with Keith Wilson Law Office and with the JCCF, in which Chad and Freedom 2022 agreed to continue to assist and provide its Freedom 2022 fundraising label to the benefit of the JCCF in return for which the JCCF would pay all Mr. Wilson's or other counsel's legal fees for Chad and Freedom 2022 for the defence of the Class Action, when the Class Action Agreement allowed Mr. Wilson to avoid his prior personal agreement to pay costs;
- e. When Chad questioned Mr. Wilson's activities including the payment of legal fees from GiveSendGo funds rather than by the JCCF; when Chad was critical of the fund raising activities of Mr. Wilson and the JCCF as creating a risk of arrest of Freedom 2022 Board members; when Chad requested separate counsel to represent him at JCCF cost, Mr. Wilson criticized Chad to the other clients/defendants and Mr. Wilson planned and directed a motion by the Board of Freedom 2022 to remove Chad as a Board Member and further to expel Chad as a member of the corporation;
- f. Without withdrawing as Chad's counsel and without informing Chad, Mr. Wilson made application for standing at the Inquiry for individual Board members and former Board members of Freedom 2022 without seeking standing for Chad;
- g. By advising the Inquiry and others that Chad had neglected his duties as accountant for Freedom 2022, a role Chad never occupied, and that Chad was responsible for Freedom 2022 being unable to fulfill documentary production requests, which statements were untrue.

68. Chad states that as a result of these breaches of fiduciary duty he has experienced loss and damage and Chad claims to be entitled to general damages, pecuniary damages including loss of

income and equitable damages including disgorgement of legal fees Mr. Wilson has received with respect to representing Chad and Freedom 2022.

Breach of Contract - the Class Action Agreement

69. In addition and in the alternative Chad states he entered into the Class Action Agreement with the Wilson Law Office and with the JCCF through its agent Keith Wilson, on his own behalf and as a Director and Officer of Freedom 2022, for the provision of legal services for the defence throughout the Class Action Mr. Wilson or other counsel at JCCF expense, in return for Chad and Freedom 2022 assisting and cooperating with JCCF fundraising efforts, allowing the JCCF to use the Freedom 2022 brand along with other freedom convoy labels, with the donated funds becoming the property of and under control of the JCCF.

70. Chad denies he was in any way in breach of the agreement. He states that without notice Mr. Wilson and the JCCF terminated the agreement and breached the agreement and have caused Chad damage in amounts to be proven at trial.

71. The Plaintiff claims pre-judgement interest on all amounts pursuant to *the Pre-Judgement Act*, SS 1984-84-86, c P-22.2

72. The Plaintiff claims against the Defendants for negligence as follows:

- a. Pecuniary or special damages in an amount to be proven at trial;
- b. Pre-judgement interest on all amounts pursuant to *the Pre-Judgement Act*, SS 1984-84-86, c P-22.2;
- c. Cost of this action;
- d. Such further and other relief as this Honourable Court may allow.

73. The Plaintiff claims against the Defendant Keith Wilson for breach of fiduciary duty as follows:

- a. General damages;
- b. Aggravated damages;
- c. Pecuniary or special damages;

- d. Equitable damages including disgorgement of legal fees received by Wilson Law Office for representing the Plaintiff and Freedom 2022;
- e. Pre-judgement interest on all amounts pursuant to *the Pre-Judgement Act*, SS 1984-84-86, c P-22.2;
- f. Punitive damages;
- g. Costs on a solicitor client basis;
- h. Such further and other relief as this Honourable Court may allow.

74. The Plaintiff claims against the Defendants Keith Wilsom and the Justice Center for Constitutional Freedoms in contract:

- a. pecuniary or special damages;
- b. Pre-judgement interest on all amounts pursuant to *the Pre-Judgement Act*, SS 1984-84-86, c P-22.2;
- c. Costs of this Action;
- d. Such further and other relief as this Honourable Court may allow.

DATED at the City of Regina in the Province of Saskatchewan, this "27th" day of February, 2023

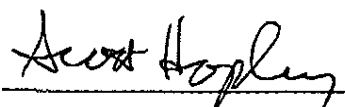
Gerrand Rath Johnson LLP

Per: "Scott Hopley"

Counsel for the Plaintiff, Chad Eros

AMENDED at the City of Regina in the Province of Saskatchewan, this 1st day of March, 2023
This Statement of Claim has been amended pursuant to The Queen's Bench Rules 3-72(1)(a) on this 1st day of March, 2023.

Gerrand Rath Johnson LLP

Per: 

Counsel for the Plaintiff, Chad Eros

Name of firm: Gerrand Rath Johnson LLP
Name of lawyer in charge of file: Scott Hopley
Address of legal firm: 700-1914 Hamilton Street,
Regina SK, S4P 3N6
Telephone number: 306.522.3030
Fax number (*if any*): 306.522.3555
Email address (*if any*): Shopley@GRJ.ca
File Number: 15757.007

From: [Paul Champ](#)
To: [James Manson](#); shelley@overwaterlaw.com; jim@karahalios.law
Subject: RE: Li v. Barber - Request for Production of Settlement Agreements
Date: Tuesday, May 14, 2024 7:54:08 PM
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
43 Florence Street | 43, rue Florence
Ottawa, Ontario K2P 0W6
T: (613) 237-2441
F | Téléc.: (613) 232-2680
www.champlaw.ca

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 <jmanson@charteradvocates.ca>
Sent: Tuesday, May 14, 2024 7:10 PM
To: Paul Champ <pchamp@champlaw.ca>; shelley@overwaterlaw.com; jim@karahalios.law
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
c/o 1300-80 Richmond Street West
Toronto, Ontario M5H 2A3
T: 416.888.9254
E: jmanson@charteradvocates.ca



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From: [Shelley Overwater](#)
To: [James Manson](#)
Cc: [Andrew Burgess](#); [Paul Champ](#); [Selena Bird](#); [Christine Johnson](#); [Chad Eros](#); [Jim Karahalios](#); [Chris Fleury](#)
Subject: Re: Li et al v Barber et al Certification Motion
Date: Wednesday, October 29, 2025 4:47:18 PM

I am surprised also, seeing that Mr. Champ was so quick to remind me when he felt we were late with something, this has caused prejudice to all our clients also and I refuse to try to meet this timeline now it is not workable for me at all. I agree with Mr. Burgess and Mr. Manson that relief may be in order.

Shelley

On Wed, Oct 29, 2025 at 3:29 PM James Manson <jmanson@charteradvocates.ca> wrote:

Counsel, Mr. Eros:

I am in receipt of Mr. Burgess's e-mail, below. Like him, I fail to understand the current state of affairs in this matter.

As we all know, at the last case conference on July 31, 2025, a judicial timetable for the certification motion was negotiated and agreed to by counsel and approved by the Court. Justice MacLeod issued a Case Management Order (the "CMO") that same day, setting out the agreed-upon timetable.

The CMO is a binding court order. Pursuant to its terms, the Notice of Motion for the certification motion was to have been served by August 7, 2025, and the plaintiffs' certification record was to have been served by September 15, 2025. These are clear deadlines set out in the CMO.

Neither of these deadlines have been met. We have no idea why. There has been no explanation from Mr. Champ or anyone in his office. I understand from Mr. Burgess that two prior e-mails to Mr. Champ seeking an explanation have gone unanswered, as has his recent e-mail sent two days ago.

I remind counsel of Rule 7.2-5 of the *Rules of Professional Conduct*: "*A lawyer shall answer with reasonable promptness all professional letters and communications from other legal practitioners that require an answer, and a lawyer shall be punctual in fulfilling all commitments.*"

I join Mr. Burgess in his request for an explanation from plaintiffs' counsel, which ought to be forthcoming without any further delay.

The current situation is causing and will continue to cause obvious prejudice to my clients, who were expecting to have been served with the plaintiffs' motion materials over six weeks ago.

My clients' position is that the current motion timetable is now unworkable and will need to be completely re-negotiated. Further, my clients reserve their rights to seek such additional relief as may be warranted going forward.

Regards,

James Manson

Charter Advocates Canada

T/F: 416.888.9254 | E: jmanson@charteradvocates.ca

From: Andrew Burgess <andrew@andrewburgesslaw.ca>

Sent: Monday, October 27, 2025 4:33 PM

To: Paul Champ <pchamp@champlaw.ca>

Cc: James Manson <jmanson@charteradvocates.ca>; Selena Bird <sbird@charteradvocates.ca>; Shelley Overwater <shelley@overwaterlaw.com>; Christine Johnson <cjohnson@champlaw.ca>; Chad Eros <chaderos@protonmail.com>; Jim Karahalios <jim@karahalios.law>

Subject: Li et al v Barber et al Certification Motion

Paul,

Can you please provide us with an update about what is going on with your certification motion and why you have not complied with any of the steps in the timetable so far. You asked for this timetable and we all arranged our schedules based on the belief that this motion was going to take place. For example, I tried not to schedule too many other matters in January and early February believing that I would likely need lots of time to prepare and defend cross-examinations on the certification motion during those weeks. I wrote to you twice in September asking why you had not provided your notice of

motion by the August 7 deadline or your certification record by the September 15 deadline and you never responded to me at all.

It is not appropriate to set down a timetable in a complex litigation like this with many counsel, completely ignore your own filing and service deadlines, and then "ghost" opposing counsel when they inquire as to what is going on.

Andrew

Andrew Burgess

T. 416.562.5137
F. 866.677.9338
111 Queen Street East
South Building, Suite 450
Toronto, Ontario M5C 1S2
andrew@andrewburgesslaw.ca



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Shelley L. Overwater BSW, J.D.

OVERWATER LAW

Unit 2 - 583 Main Street

Winkler, MB R6W 1A4

204-325-5594

shelley@overwaterlaw.com