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No. _____
Victoria Registry

In the Supreme Court of British Columbia

Between

Her Majesty the Queen in right of the Province of British Columbia,
and the Attorney General of British Columbia

Plaintiffs

and

Hugh Adamson, Donna Aumbus, Ollie Aux, Adam Baker, Michael (Magnus) Bjornson,
Christine Brett, Shane Enns, Jorge Gome, Russell Lloyd-Jones, Sean M. Manley,
Audrey Moffatt, Carl Montgomery, Rose Mullin, Kristel Oertel, Chris Parent,
AmanDa Paska, Ricky Perreault, Joseph Reville, Andrea Robinson, Vincent Robinson,
Norman Ruble, Rathborne Smallwood, Dough Swait, William Wale, Mitchell Wallace,
Jane Doe, John Doe, and Other Unknown Persons

Defendants

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiffs,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

1. The plaintiff Her Majesty the Queen in right of the Province of British Columbia (the “Province”) is and was at all material times the owner in possession of the lands and premises of the Victoria Law Courts at 850 Burdett Avenue, Victoria, British Columbia, occupying the city block bounded by Blanshard Street on the west, Quadra Street on the east, Courtney Street on the north, and Burdett Avenue on the south, and more particularly described as Lot 1 Section 88 Victoria District Plan 12886, Parcel Identifier 004-673-646 (the “Courthouse Property”).
2. The plaintiff the Attorney General of British Columbia is the official legal adviser of the Lieutenant Governor and the legal member of the Executive Council, and has *parens patriae* jurisdiction to apply to court to enjoin public nuisances and breaches of the public law, and to preserve the rule of law, pursuant to the *Attorney General Act*, R.S.B.C. 1996, c. 22.
3. Each of the defendants Hugh Adamson, Donna Aumbus, Ollie Aux, Adam Baker, Michael (Magnus) Bjornson, Christine Brett, Shane Enns, Jorge Gome, Russell Lloyd-Jones, Sean M. Manley, Audrey Moffatt, Carl Montgomery, Rose Mullin, Kristel Oertel, Chris Parent, AmanDa Paska, Ricky Perreault, Joseph Reville, Andrea Robinson, Vincent Robinson, Norman Ruble, Rathborne Smallwood, Dough Swait, William Wale, and Mitchell Wallace is a person of no known occupation or address who has been camping at the 0.3-hectare

green space that comprises the eastern third the Courthouse Property (the “Courthouse Green Space”).

4. The defendants Jane Doe, John Doe, and Other Unknown Persons are persons approximately 50 to 100 in number whose identities, occupations, and addresses the plaintiffs do not know, who have been camping at the Courthouse Green Space.
5. Some of the defendants are homeless persons having no fixed addresses. Other of the defendants are persons who do have homes elsewhere, but choose to camp at the Courthouse Green Space on a part-time or full-time basis for their own reasons. The fixed addresses of the non-homeless defendants are unknown to the plaintiffs.
6. The Courthouse Property, including the Courthouse Green Space, was formerly held by the British Columbia Buildings Corporation and is “administered land” under the *Public Agency Accommodation Act*, S.B.C. 2006, c. 7. As such, no provision of the *Land Act*, R.S.B.C. 1996, c. 245 except s. 50 applies to the Courthouse Property.
7. The Courthouse Green Space is not under the custody, care, or management of the Director of Parks, Recreation and Community Development for the City of Victoria, or any designated representative of the Director. As such, the Courthouse Green Space is not a “park” within the meaning of the Parks Regulation Bylaw passed by the City of Victoria under the *Community Charter*, S.B.C. 2003, c. 26.
8. The Province as landowner has permitted members of the public to enter upon and use the Courthouse Green Space for recreation activities, but has never authorized the establishment of an encampment at the site.
9. On numerous dates since about November 2015, the defendants have wrongfully and without lawful excuse entered upon the Courthouse Green Space to erect and maintain tents and other structures, to store objects and things in and around the structures, and to inhabit the structures, thereby establishing an encampment that occupies most or all of the area of the Courthouse Green Space (the “Encampment”) to the exclusion of other uses. The defendants have maintained the Encampment throughout the day and night, without limiting their activities to overnight sheltering.

10. On January 8, 2016, representatives of the Province read aloud, distributed, and posted at the Courthouse Green Space a notice requesting the defendants to leave the Courthouse Property.
11. The number of individuals and tents present in the Encampment did not decrease in response to the January 8, 2016 notice.
12. On February 4, 2016, representatives of the Province read aloud, distributed, and posted at the Courthouse Green Space a notice under s. 4 of the *Trespass Act*, R.S.B.C. 1996, c. 462 requiring all camping at the Courthouse Green Space to cease and all tents and other personal property to be removed by no later than February 25, 2016.
13. By February 26, 2016, only approximately 50 of the defendants had removed themselves and their belongings from the Courthouse Green Space, while a significant number of individuals and approximately 60 to 70 structures remain in the Encampment. The defendants or some of them – who are continuing to maintain the Encampment despite the February 25, 2016 deadline – threaten and intend to continue the trespass unless restrained from doing so.
14. In maintaining the Encampment despite the February 25, 2016 deadline, the defendants, or some of them, have been openly and continuously committing the offence of trespass defined in s. 4 of the *Trespass Act*. Because of the scale on which the offence is being committed and the densely populated nature of the Encampment, law enforcement officials have been unable or unwilling to exercise the power of arrest under s. 10 of the *Trespass Act*.
15. On February 27, 2016 the defendants were issued an order pursuant to s. 22 of the *Fire Services Act*, R.S.B.C. 1996, c. 144 to eliminate the fire hazards at the Encampment. The defendants have failed to comply with that order and are in breach of s. 45 of the *Fire Service Act*.
16. Since December 2015, in an effort to address the needs of homeless persons residing at the Encampment, the Province, through the British Columbia Housing Management Commission, has funded the following new facilities and programs in the City of Victoria:

- a. three new 24/7 transitional housing facilities providing accommodation for a total of 128 homeless individuals, including indoor and outdoor tent spaces;
 - b. 75 new nighttime shelter spaces for homeless individuals; and
 - c. 40 new rent supplements specifically targeted to homeless persons from the Encampment.
17. Those of the defendants remaining at the Encampment who are homeless have declined to move to these new spaces despite efforts to assist them with relocation.
18. From about November 2015 to the present time, the defendants by maintaining the Encampment have damaged the Courthouse Green Space, impeded operations at the Victoria Law Courts, affected the quiet enjoyment of individuals residing in the neighbourhood, disrupted the operation of businesses in the neighbourhood, and created health and safety hazards for themselves and members of the surrounding community. Particulars of the nuisance and breaches of public law include:
- a. Impeding or dissuading the public use of the Courthouse building and interfering with access to justice services at the Justice Access Centre located within the Victoria Law Courts building. Members of the public are currently reluctant to attend the Courthouse precinct.
 - b. displacing other members of the public, including Courthouse staff and participants in legal proceedings at the Victoria Law Courts, from use of the Courthouse Green Space for respite and recreation;
 - c. impeding or dissuading public use of sidewalks adjacent to the Courthouse Green Space;
 - d. denuding the lawn and altering the grade profile of the ground at the Courthouse Green Space such that the site will no longer be usable for the enjoyment of the public as a green space unless and until significant remediation steps are taken;

- e. impeding access to the Justice Access Centre located within the Victoria Law Courts building;
 - f. burning wood, garbage, and other substances in open fires, creating smoke that has entered nearby buildings and sickened individuals in those buildings;
 - g. creating fire hazards, including burning candles within tents and storing combustible materials within the Encampment;
 - h. defecating on the ground at locations in and around the Encampment, including at locations at or in front of entrances to the Victoria Law Courts;
 - i. depositing garbage and debris in and around the Encampment, including biohazardous materials such as used needles and syringes;
 - j. engaging in criminal activity in and around the Encampment, including assaults and drug trafficking; and
 - k. creating noise, disturbance, and a general air of discomfort that has affected residents and businesses in the neighbourhood, as well as discouraged or impeded members of the public from seeking access to justice within the courthouse building.
19. By reason of the nuisance, which is substantial and unreasonable, the Province as landowner, together with a cross-section of the public residing, working, accessing services, or carrying on business in the surrounding area, have suffered annoyance, discomfort, loss of enjoyment, and loss, damage, and expense.

Part 2: RELIEF SOUGHT

- 1. An injunction to restrain the defendants from trespassing upon the Courthouse Green Space and from continuing their particular activities in maintaining the Encampment that have constituted nuisance.
- 2. Such further and other relief as this Court may determine to be just.

Part 3: LEGAL BASIS

1. The defendants' continued use, occupation, and possession of the Courthouse Green Space is unlawful and constitutes a trespass. The defendants' have been given notice on two occasions by the Province, the owner and occupier of the premises, to vacate the Courthouse Green Space, and they have failed to do so. The defendants have no lawful right to maintain the Encampment, or to continue their use, occupation and possession of the Courthouse Green Space or any part of it.
2. Instances of the defendants' trespass include:
 - a. the continued unlawful use, occupation and possession of the Courthouse Green Space, thereby preventing other lawful users of the premises from using and enjoying the Courthouse Green Space;
 - b. damaging the premises, including destruction of the grass and other plants on the premises;
 - c. unlawfully depositing personal property, other material, and waste including garbage, human excrement, and discarded building materials, on the Courthouse Green Space;
 - d. unlawfully erecting structures on the Courthouse Green Space; and
 - e. occupying and continuing the Encampment.
3. The matters set out in paragraph 18 of Part 1 constitute an unlawful interference with the rights of the Province as owner of the premises, and of adjoining property owners and the public, and constitute a nuisance, private or public or both.

4. The defendants have committed breaches of the public law by openly and continuously committing the offence of trespass defined in s. 4 of the *Trespass Act*, failing to comply with an order issued under the *Fire Services Act*, and discouraging or impeding public access to the Victoria Law Courts.

Plaintiffs' address for service:

Ministry of Justice and Attorney General
Legal Services Branch
PO BOX 9280 STN PROV GOVT
1001 Douglas Street
Victoria, BC V8W 9J7

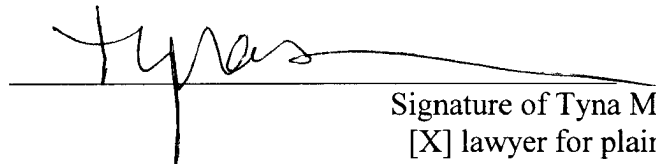
Fax number address for service (if any): (250) 356-9154

E-mail address for service (if any): Tyna.Mason@gov.bc.ca

Place of trial: Victoria

The address of the registry is: 850 Burdett Avenue, Victoria, BC.

Date: February 29, 2016


Signature of Tyna Mason
[X] lawyer for plaintiffs

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

*[Check **one** box below for the case type that **best** describes this case.]*

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws

- none of the above
- do not know

Part 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]

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Norman Ruble, Rathborne Smallwood, Dough Swait, William Wale, Mitchell Wallace,
Jane Doe, John Doe, and Other Unknown Persons

Defendants

NOTICE OF CIVIL CLAIM

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