

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NORTH SHORE RESCUE TEAM SOCIETY.

PLAINTIFF

AND:

SEARCH AND RESCUE SOCIETY OF BRITISH COLUMBIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff 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 plaintiff(s),

- (c) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

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

Part 1: STATEMENT OF FACTS

Introduction

1. The Plaintiff, North Shore Rescue Team Society ("**NSR**"), is a mountain search and rescue service based in Vancouver, British Columbia.
2. NSR provides public education on outdoor safety and search and rescue services to: Provincial Emergency Program (PEP); RCMP and municipal police services; Municipal fires services; BC Ambulance Service; Other Search and Rescue (SAR) teams in British Columbia and Washington State and local and regional governments during civil emergencies.
3. NSR relies upon a variety of sources of funding for supporting its initiatives, one of the most critical is public donations
4. NSR is a 100% volunteer organization, there are no paid employees nor paid contract fund raisers.
5. NSR is a member of the British Columbia Search and Rescue Association (BCSARA) which represents 80 separate bona fide SAR teams in the province of British Columbia.
6. The purpose of BCSARA is to access funding for training, provide occupational health and safety support, public education and resources for bona fide SAR teams in the province of BC. All SAR teams which are members of BCSARA are 100% volunteer teams.
7. The Defendant was incorporated as a Society pursuant to the laws of the Province of British Columbia on December 9, 1983 with a registered office is a 23D W Burnside Road, in the City of Victoria, Province of British Columbia
8. The Defendant, purports to be a Search and Rescue team which provides assistance to bona fide SAR teams. Law Enforcement Agencies and families of missing persons.
9. The Defendant is not a member of BCSARA.
10. The Defendant is not a 100% volunteer organization.

11. The Defendant employees and/or contractors of the Defendant have engaged in public fund raising initiatives in which they purport to represent NSR and/or other bona fide SAR teams in their requests for donations.
12. The Defendant employees and/or contractors of the Defendant have represented that funds raised through their telephone solicitation campaigns will be used to support NSR and/or other bona fide SAR teams.
13. The Defendant pays employees and/or contractors for the performance of fundraising and or other tasks.
14. The Defendant employees and/or contractors of the Defendant have made telephone calls to potential sources of donations throughout the province including Metro Vancouver, the North Shore and areas in which NSR has established good will through its community service.
15. NSR has received complaints from members of the public who reside in Metro Vancouver, complaining about the manner in which the “aggressive” telephone solicitation have occurred, wrongfully believing that these calls were made or authorized by NSR.
16. The reported aggressive telephone solicitation calls were made by the Defendant or agents authorized by the Defendant.
17. Neither the NSR, BCSARA or any other bona fide SAR team engages in telephone solicitation campaigns with members of the public to raise funds.

Unlawful and Tortious Conduct

18. For several years the Defendants (and or their agents, employees or contractors) have been engaged in an extensive and aggressive telephone solicitation campaign in which they falsely:
 - (a) Represent that they are soliciting funds on behalf of NSR, and/or bona fide SAR teams;
 - (b) Represent that funds sent to them will be provided to a NSR and/or bona fide SAR teams;
 - (c) Represent that the Defendant provides SAR services similar to NSR and/or bona fide SAR teams;
 - (d) Represent that the Defendant provides support or assistance to NSR and/or bona fide SAR teams.
19. The Unlawful Activities have caused and will cause NSR the following harm:
 - (a) disruption in fund raising efforts of NSR by wrongfully diverting funds that would otherwise been sent to NSR;

- (b) loss of goodwill reputation amongst members of the public as a result of the Defendant's aggressive and misleading telephone solicitation campaign.

Part 2: RELIEF SOUGHT

1. The Plaintiff seeks the following relief:
 - (a) Damages arising from:
 - (i) the loss of good will NSR has sustained in light of the aggressive and unauthorized telephone solicitation campaign;
 - (ii) an accounting of all funds raised by the Defendant by misrepresenting the purpose of the donated funds (namely to benefit NSR); and
 - (iii) the misappropriation of the name of NSR;
 - (b) An interlocutory and permanent injunction restraining the Defendants and anyone with knowledge of the order, and each of them by themselves, their servants and agents, or otherwise, from engaging in any fund raising activity purporting to raise money on behalf of NSR or any bona fide SAR team;
 - (c) An interlocutory and final injunction restraining the Defendants and anyone with knowledge of the order, and each of them by themselves, their servants and agents, or otherwise, from imitating, attempting to imitate, a representative of NSR or any bona fide SAR team ;
 - (d) An interlocutory and final injunction restraining the Defendants from calling themselves a SAR team;
 - (e) Costs;
 - (f) Pre- and post-judgment interest pursuant to the *Court Order Interest Act*; and
 - (g) Such further relief as determined appropriate by the Court.

Part 3: LEGAL BASIS

1. The Defendant has falsely represented that they are soliciting funds on behalf of NSR and or other bona fide SAR teams when such representation is completely untrue Such conduct is unlawful.
2. The Defendant has falsely represented that they provide services, support and/or assistance to bona fide SAR teams in order to solicit funds from members of the public when such representation is untrue. Such conduct is unlawful.
3. The Defendants are engaging in unlawful conduct which is substantially interfering with the Plaintiff's fund raising activities.

4. The Defendants are engaging in unlawful conduct which is substantially damaging the goodwill of the community serviced by NSR.
5. The Defendants' unlawful conduct has caused and will cause loss and damages.
6. The Defendants' continued unlawful conduct has resulted, and will result, in irreparable harm for which damages will not be an adequate remedy.

Defendant's address for service:

Roper Greyell LLP
1850 – 745 Thurlow Street
Vancouver, B.C. V6E 0C5
Attention: Gregory J Heywood

Fax number address for service: N/A

E-mail address for service: gheywood@ropergreyell.com

Date: March 13, 2017

Signature of lawyer for the Plaintiff
Gregory J Heywood

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 of record 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.

This NOTICE OF CIVIL CLAIM was prepared and is filed by the law firm of Roper Greyell LLP, which has a place of business and address for service at 1850 – 745 Thurlow Street, Vancouver, British Columbia, V6E 0C5 (Attention: Gregory J Heywood); telephone number (604) 806-0922 and fax number (604) 806-0933.

APPENDIX

PART 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Claim seeking damages and an injunction arising from illegal activity on a picket line.

PART 2: THIS CLAIM ARISES FROM THE FOLLOWING:

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:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

PART 4:

1. *Law and Equity Act*, R.S.B.C. 1996, c. 253, s. 39.
2. *Court Order Interest Act*, R.S.B.C. 1996, c. 79.