

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**

NOV 24 2015

S - 159759

No. _____
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TEAL CEDAR PRODUCTS LTD.

PLAINTIFF

AND:

WESTERN CANADA WILDERNESS COMMITTEE, TORRANCE COSTE, DAVE
CASCAGNETTE, TREVOR SCHINKEL, JENNIFER WHITEHOUSE, MARLENE
DOE, JOHN DOE, JANE DOE, AND PERSONS UNKNOWN

DEFENDANTS

NOTICE OF CIVIL CLAIM

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

RECEIVED
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Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (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 PLAINTIFF(S)

Part 1: STATEMENT OF FACTS

The parties

1. The Plaintiff, Teal Cedar Products Ltd. ("**Teal Cedar**") is a company incorporated under the laws of British Columbia, having a registered office at 2800 - 666 Burrard Street, Vancouver, BC V6C 2Z7. It is in the business of timber harvesting and the manufacture of primary lumber products.
2. The Defendant Western Canada Wilderness Committee is an organization with a head office at 46 East 6th Avenue, Vancouver, BC V5T 1J4.
3. The Defendants David Cascagnette, Trevor Schinkel, and Jennifer Whitehouse, are individuals whose addresses are unknown to Teal Cedar.

Teal Cedar's recent activities

4. Teal Cedar owns Tree Farm Licence 46 ("**TFL 46**"), which grants it the exclusive right to harvest Crown timber within the area described in the licence. The area described in TFL 46 includes land in the Walbran valley on Vancouver Island.
5. Teal Cedar owns Road Permit No. R04476 ("**R04476**"), which grants it the right to construct, use, and maintain roads within the boundaries of TFL 46.

6. Each, or alternatively both, of TFL 46 and R04476 grant Teal Cedar an interest in land in the nature of a *profit à prendre*.
7. On or around September 17, 2015 the Ministry of Forests, Lands and Natural Resources (the "**MOF**") issued Cutting Permit 7G. Cutting Permit 7G authorizes Teal Cedar to harvest Crown timber within certain designated areas (the "**7G Cutblocks**") for a term of four years.
8. The 7G Cutblocks are located on territory claimed by the Pacheedaht First Nation (the "**Pacheedaht**") as their traditional territory. At Teal Cedar's request, the Pacheedaht reviewed Teal Cedar's proposal to harvest timber in the 7G Cutblocks.
9. After conducting this review, the Pacheedaht advised Teal Cedar that the proposed activities in the 7G Cutblocks may proceed. They also advised that the Pacheedaht would not physically oppose Teal Cedar's operations in the 7G Cutblocks.
10. On or around September 4, 2015, the MOF amended R04476 to permit Teal Cedar to construct roads within the boundaries of TFL 46 in order to access certain 7G Cutblocks (the "**New Roads**").
11. Teal Cedar has contracted with Maverick Logging Ltd. ("**Maverick**") to construct the New Roads.
12. Maverick has commenced construction of the New Roads.
13. Teal Cedar intends to upgrade certain roads in TFL 46 to accommodate heli-logging operations in the 7G Cutblocks (the "**Road Upgrades**").
14. Teal Cedar also intends to construct a helicopter landing pad within the boundaries of TFL 46 in order to conduct heli-logging operations in the 7G Cutblocks (the "**Helicopter Service Landing**").

The Blockade

15. On or before November 9, 2015, a group of approximately 10 individuals, including David Cascagnette, Trevor Schinkel, and Jennifer Whitehouse (the "**Blockaders**"), established an unlawful blockade of the sole road providing vehicle access to the

intended locations of the New Roads, the Road Upgrades, and the Helicopter Service Landing (the "**Blockade**").

16. The Blockade consists of individuals physically impeding access to the road, vehicles parked on the road, and a rope strung across the road.
17. The Blockade was organized by the Defendant Western Canada Wilderness Committee and, specifically, Torrance Coste.
18. Torrance Coste is an employee of the Western Canada Wilderness Committee.
19. As a result of the Blockade, Maverick is unable to continue construction of the New Roads. It is therefore unable to fulfil its contractual obligations to Teal Cedar.
20. Teal Cedar is unable to perform the Road Upgrades while the Blockade is in place, as the intended locations of these upgrades are behind the Blockade.
21. Teal Cedar is also unable to construct the Helicopter Service Landing while the Blockade is in place, as its intended location is behind the Blockade.
22. On or around November 9, 2015, Mark Carter, a representative of the Teal Cedar, informed the Blockaders that the Blockade was causing members of Maverick's road crew to lose wages and the owners of the road construction equipment to lose revenue.
23. Maverick owns the road construction equipment.
24. Mr. Carter also informed the Blockaders that Teal Cedar was lawfully entitled to continue operations in the area.
25. Some of the Blockaders stated that they intend to obstruct any construction in the area.
26. On November 10, 2015, Mr. Carter asked the Blockaders to remove the Blockade. The Blockaders refused to do so.
27. The Blockaders agreed to permit Maverick to apply rock surfacing on an unfinished portion of the New Roads in order to prevent erosion. They permitted this on the condition that the road crew not commence construction of any new segment of road.

28. On Friday, November 20, 2015, the Maverick road crew finished applying rock surfacing to the unfinished portion of the New Roads.
29. The Blockade resumed on Monday, November 23, 2015 and is currently in place.

Impact of the Blockade

30. Teal Cedar has suffered financial losses as a result of the Blockade.
31. The New Roads, the Road Upgrades, and the Helicopter Landing cannot be constructed once it begins to snow heavily in the Walbran valley.
32. The Blockade will (i) interfere with Teal Cedar's business as a going concern, (ii) cause Teal Cedar to lose the goodwill and customer loyalty of its customers, and (iii) cause Teal Cedar to lose revenue, as follows:
 - (a) if Teal Cedar cannot complete construction of the New Roads before it begins to snow heavily, its conventional logging operations in the 7G Cutblocks, scheduled to commence in the spring of 2016, will be delayed until the road is complete;
 - (b) if Teal Cedar cannot complete construction of the Helicopter Service Landing and perform the Road Upgrades before November 25, 2015, it will be unable to conduct scheduled heli-logging operations in the 7G Cutblocks; and
 - (c) if Teal Cedar cannot helicopter harvest cedar trees for use as poles from the 7G Cutblocks this autumn, it will be unable to meet certain customer commitments.

Part 2: RELIEF SOUGHT

1. An interim, interlocutory, and permanent injunction enjoining the Defendants and anyone with knowledge of the Court's order from:
 - (a) interfering with any person who seeks to gain access to or egress from any road, road construction site or planned road construction site situate between (i) the junction of Glad Lake Main Road and GL9 Road and (ii) the Carmanah Walbran Provincial Park boundary (the "Roads");

- (b) interfering with the Plaintiff's motor vehicles and those of its employees, agents, contractors, suppliers, or others in privity of contract with the Plaintiff (the "**Motor Vehicles**"), and in particular, coming within 50 meters of the Motor Vehicles;
 - (c) interfering with any construction activities conducted on the Roads by the Plaintiff, its employees, agents, contractors or suppliers, or others in privity of contract with the Plaintiff;
 - (d) interfering with the business, contractual or economic relationships between the Plaintiff and its employees, agents, contractors or suppliers, or others in privity of contract with the Plaintiff;
 - (e) interfering with the Plaintiff's employees, management staff, agents, contractors or suppliers or others in privity of contract with the Plaintiff, or their families;
 - (f) conspiring to use unlawful means against the Plaintiff and its employees, agents, contractors or suppliers, or others in privity of contract with the Plaintiff, or their families; and
 - (g) ordering, aiding, abetting, counselling or encouraging in any manner whatsoever, either directly or indirectly, any person to commit the acts above mentioned or any of them;
2. General damages for the Defendants' tortious conduct;
 3. Special damages for the Defendants' tortious conduct, the particulars of which will be provided prior to trial;
 4. Costs; and
 5. Such further and other relief as this Honourable Court deems just.

Part 3: LEGAL BASIS

1. The Plaintiff relies on Rules 8-1 and 10-4 of the Rules of Court, Section 39 of the *Law and Equity Act*, RSBC 1996, c. 235, and the inherent jurisdiction of this Court.

2. Plaintiff has a strong *prima facie* case and has suffered irreparable harm. The balance of convenience favours granting interlocutory injunctive relief.
3. The Defendants have committed the following torts:
 - (a) trespass;
 - (b) nuisance;
 - (c) unlawful interference with economic relations;
 - (d) interference with contractual relations;
 - (e) inducing breach of contract;
 - (f) intimidation; and
 - (g) conspiracy.
4. Western Canada Wilderness Committee is vicariously liable for the torts of its employee Torrance Coste.
5. Permanent injunctive relief, in addition to damages, is an appropriate remedy for the Defendants' tortious acts.

Plaintiff's address for service: Dean Dalke
 DLA Piper (Canada) LLP
 Barristers & Solicitors
 2800 Park Place
 666 Burrard Street
 Vancouver, BC V6C 2Z7

Fax number address for service (if any): 604.687.1612

E-mail address for service (if any): N/A

Place of trial: Vancouver

The address of the registry is:

800 Smithe Street
Vancouver, BC V6Z 2E1

November 24, 2015
Dated

DLA Piper (Canada) LLP
Signature of lawyer for plaintiff
DLA Piper (Canada) LLP (Dean Dalke)

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

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Defendants engaged in an unlawful blockade.

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: THIS CLAIM INVOLVES:

The Law and Equity Act, RSBC 1996, c. 235.