

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 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 DOE 3, JOHN DOE 4, JOHN DOE 5,
JOHN DOE 6, JOHN DOE 7, JOHN DOE 8, JOHN DOE 9, JOHN DOE 10,
JOHN DOE 11, JOHN DOE 12, JOHN DOE 13, JOHN DOE 14, JOHN DOE 15,
JOHN DOE 16, JOHN DOE 17, JOHN DOE 18, JOHN DOE 19, JOHN DOE 20,
JOHN DOE 21, JOHN DOE 22, JOHN DOE 23, JOHN DOE 24, JOHN DOE 25,
JOHN DOE 26, JOHN DOE 27, JOHN DOE 28, JOHN DOE 29, JOHN DOE 30,
JOHN DOE 31, JOHN DOE 32, JOHN DOE 33, JOHN DOE 34, JOHN DOE 35,
JOHN DOE 36, JOHN DOE 37, JOHN DOE 38, JOHN DOE 39, JOHN DOE 40,
JOHN DOE 41, JOHN DOE 42, JOHN DOE 43, JOHN DOE 44, JOHN DOE 45,
JOHN DOE 46, JOHN DOE 47, JOHN DOE 48, JOHN DOE 49, JOHN DOE 50,
JOHN DOE 51, JOHN DOE 52, JOHN DOE 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

Proceeding under the *Class Proceedings Act, 1992*

FRESH AS AMENDED STATEMENT OF CLAIM
(Claim originally issued on February 4, 2022)

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: February 4, 2022

Issued by: "Electronically issued"

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 Jansen
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: John Doe 1 to John Doe 60

AND TO: Jane Doe 1 and Jane Doe 2

CLAIM

1. The Plaintiffs, on behalf of the subclasses 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 Subclass, the Business Subclass and the Employee Subclass (as defined below);
 - (b) general damages for private nuisance and public nuisance, in the amount of \$36-million for pain and suffering and psychological distress, or any such amount that this Honourable Court deems appropriate;
 - (c) special damages for private nuisance and public nuisance, in the amount of \$200-million for business losses;
 - (d) special damages for private nuisance and public nuisance, in the amount of \$60-million for loss of wages;
 - (e) punitive damages in the amount of \$10-million;
 - (f) injunctive relief prohibiting the continuation of the tortious behaviour;
 - (g) pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, as amended;
 - (h) the costs of this action, including HST;
 - (i) 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
 - (j) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Over the past two years, the COVID-19 pandemic has caused significant stress, severe illness, death and grief to people across Canada and every person has been affected. Over 33,000 Canadians have died from COVID-19 and thousands more suffer from its prolonged effects.

3. Governments at all levels across the country have adopted public health measures to prevent severe illness and death from COVID-19. These public health measures have caused significant disruption to the lives of every Canadian. Despite this disruption, the vast majority of Canadians support public health measures, including vaccine mandates, because they believe these measures save lives.

4. A minority of Canadians are strongly opposed to these public health measures. The Defendants are among this minority. 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-trailer-tractor trucks, to travel from different parts of Canada and converge on the national capital of Ottawa.

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

6. As planned by the Defendants, the Freedom Convoy vehicles began to arrive in Ottawa in Ottawa on Friday, January 28, 2022. As planned by the Defendants, the Freedom Convoy protests formally launched on Saturday, January 29, 2022. Unlike most protests, the Freedom Convoy decided to stay and keep protesting, every day and night, 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 has not deterred the Defendants. At the time this claim is issued, the protest remains ongoing.

7. A key tactic of the Freedom Convoy is blasting vehicle horns all day. These horns include the air horns and train horns on the many semi-trucks. Air horns and train horns create an extremely loud noise as a warning. Air horns and train horns emit noise in the range of 100 to 150 decibels. These horns are not meant to be used for longer than a few seconds because the sound levels are dangerous and cause permanent damage to the human ear. Despite these dangers, the Freedom Convoy trucks have been blasting these dangerous horns almost continuously for 12 to 16 hours per day.

8. The Freedom Convoy trucks have largely remained parked on public streets and roads indefinitely, with their engines idling 24 hours per day. This has led to the emission of noxious diesel fumes from 300 to 500 trucks congregated in a relatively small area, making it difficult for people to breathe.

9. 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 believe in 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 12,000 residents who live closest to the protests, the non-stop blaring horns have caused unbearable torment in the

sanctity of their own homes. Combined with the diesel fumes, unexpected fireworks, and loud sound systems blasting music, the Freedom Convoy occupation has made downtown Ottawa a living hell for residents.

10. Hundreds of businesses operate in downtown Ottawa with thousands of employees. The blocked roads, diesel fumes, and constant blaring of horns has deterred customers and made it difficult to impossible for many businesses to operate. As a result, many businesses in downtown Ottawa have closed entirely, causing significant losses. Other businesses that have remained open but have seen a significant drop in revenue.

11. Thousands of people work in downtown Ottawa. Many have been laid off or had shifts cancelled because their employer closed operations due to public nuisance caused by the Freedom Convoy occupation. These employees have lost over two weeks wages and counting.

12. The Plaintiffs bring this 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.

PARTIES

13. The Plaintiff Zexi Li resides in Ottawa, Ontario, within five blocks of Parliament Hill. She is a 21-year-old public servant and graduate of the University of Ottawa.

14. The Plaintiff Happy Goat Coffee Company Inc (“Happy Goat”) is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44. 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 two locations within the affected area of downtown Ottawa, a café at 229 Rideau Street 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 two locations have been forced to close due to the Freedom Convoy occupation of downtown Ottawa.

15. 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.

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

17. The Defendant Chris Barber resides in Swift Current, Saskatchewan. He is one of the organizers of the Freedom Convoy and is one of their official spokespersons. He is a truck driver, who 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.

18. The Defendant Benjamin Dichter resides in Toronto, Ontario. He is one of the main organizers of the Freedom Convoy and is one of their official spokespersons. Dichter is a former Conservative Party of Canada candidate and a prominent supporter of the People’s Party of Canada. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

19. The Defendant Tamara Lich resides in Medicine Hat, Alberta. She is one of the main organizers of the Freedom Convoy and frequently acts as a spokesperson on social media accounts associated with the Freedom Convoy. She is listed as the organizer of the Freedom Convoy’s fundraiser on the crowdsourced fundraising platforms GoFundMe and GiveSendGo. Lich is the Secretary for the Maverick Party, a

western separatist group formerly known as Wexit Canada, and was also an organizer for the Yellow Vests Canada movement. She is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

20. The Defendant Patrick King resides in Red Deer, Alberta. He is one of the organizers of the Freedom Convoy occupation. King was a co-founder of Wexit Canada and an organizer for the Yellow Vest Canada movement and involved in the Canada Unity group.

21. The Defendant James Bauder resides in Alberta. He is one of the 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.

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

23. The Defendant Daniel Bulford resides in Ottawa, Ontario. He is a former police officer and regular member of the Royal Canadian Mounted Police. He is one of the organizers of the Freedom Convoy 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 and played an important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks. This included ensuring the truck drivers had sufficient fuel and other supplies to continue the tortious behaviour set out in this claim and coordinating the horn tactic.

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

25. The Defendant Chad Eros resides in Moose Jaw, Saskatchewan. He is one of the organizers of the Freedom Convoy and, among other activities that support the illegal protest, he plays a role in collecting and distributing money to truck drivers and other 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.

26. The Defendant Chris Garrah resides in Ottawa, Ontario. He is one of the organizers of the Freedom Convoy and, among other activities that support the illegal protest, he plays a role in collecting and distributing money to truck drivers and other 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.

27. The Defendant Miranda Gasior resides in Lloydminster, Saskatchewan. She is one of the organizers of the Freedom Convoy and, among other activities that support the illegal protest, she plays 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.

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

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

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

31. The Defendant Ryan Mihilewicz resides in Prince Albert, Saskatchewan. He is one of the organizers of the Freedom Convoy and acts as a “captain” and liaison with truck drivers from Saskatchewan who have travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

32. The Defendant Sean Tiessen resides in Grand Forks, British Columbia. He is one of the organizers of the Freedom Convoy and acts as a “captain” and liaison with truck drivers from British Columbia who have 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.

33. 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 claims to be the person overseeing Bitcoin donations to the Freedom Convoy.

34. 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 Eros, Gasior, Lich, Barber, Garrah and Tiessen are all named directors of the Defendant Freedom 2022.

35. The Defendants John Doe 1 to John Doe 60 are other drivers of semi-tractor-trucks and semi-tractor-trailer trucks that are parked in the downtown Ottawa core during the Freedom Convoy occupation, blasting air horns, train horns and other loud horns on their trucks as a form of protest. The John Doe Defendants' trucks are also idling non-stop, spewing diesel fumes throughout the downtown core. The identities of these truck drivers are unknown at the time of the issuance of the claim.

36. The Defendants Jane Doe 1 and Jane Doe 2 are unknown persons who are funding the Freedom Convoy through donations with knowledge that the Freedom Convoy participants, including the Trucker Defendants, are committing the tortious acts and unlawful behaviour described further below, with the intention of facilitating these acts.

37. The Defendants Barber, Dichter, Lich, King, Bauder, Belto, Bulford, Enns, Eros, Garrah, Gasior, Jansen, 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 is a non-profit corporation which was created as a conduit for funds and is also an Organizer Defendants.

38. The John Doe Defendants, hereinafter referred to as the "Trucker Defendants", all drove semi-trucks or semi-tractor-trailers to Ottawa and participated in the Freedom Convoy occupation of Ottawa by parking their vehicles in public roads and

streets in downtown Ottawa and blasting their horns and continuously idling their engines.

39. Jane Doe 1 and Jane Doe 2, hereinafter referred to as the “Donor Defendants”, provided funds to the Freedom Convoy through various means with the knowledge that the Trucker Defendants are engaging in the tortious and other unlawful behaviour in Ottawa described further below, and the intention of facilitating these acts.

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

OCCUPATION ZONE AND SUBCLASSES

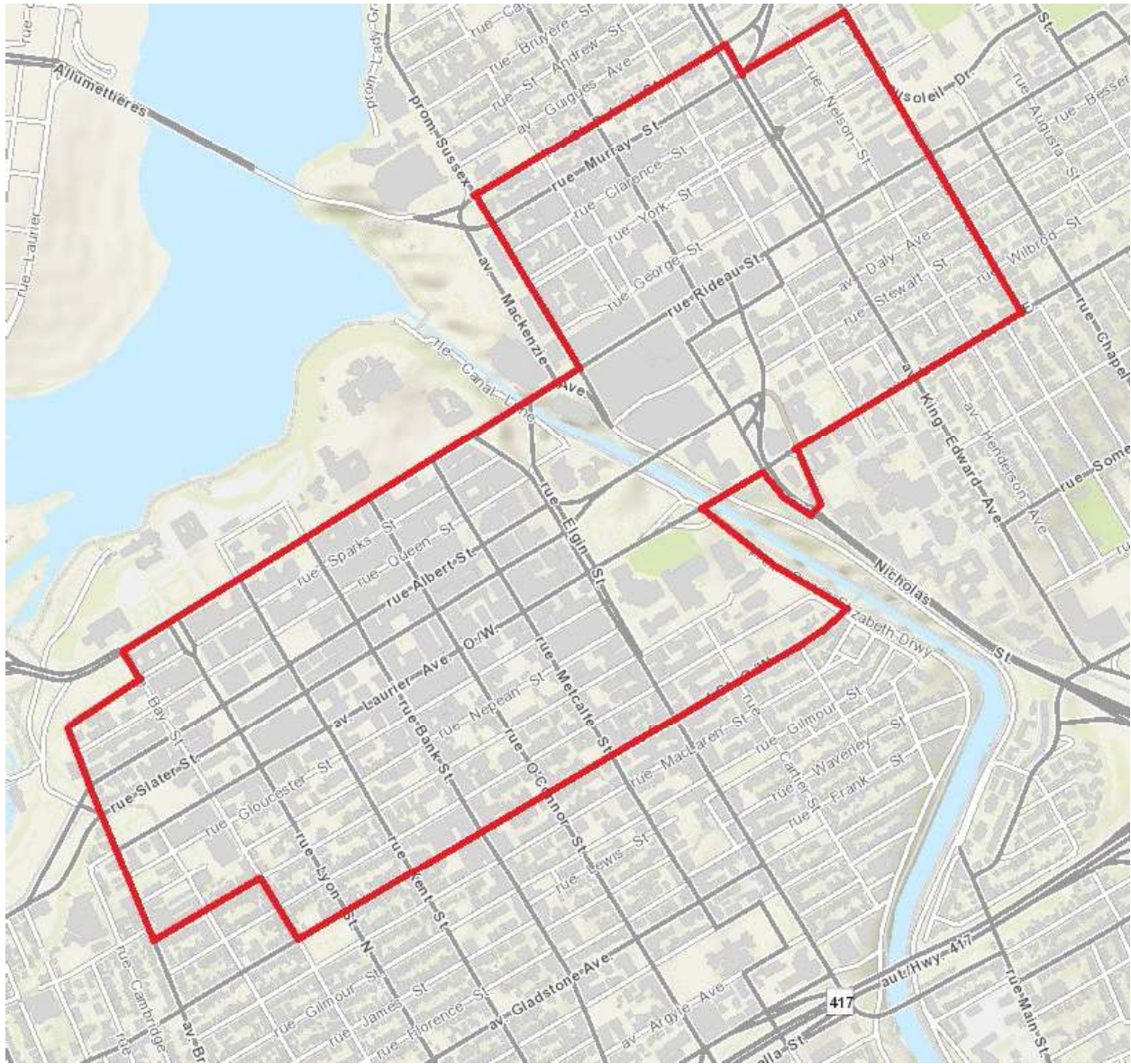
41. The Defendants engaged in a common design to occupy downtown Ottawa for an indefinite period with semi-trucks and semi-truck-trailers, to blockade the roads and streets, and to create excessive noise and other disturbances to substantially interfere with and cause distress to everyone who lives, 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.

42. The area of downtown Ottawa that the Defendants completely or partially blockaded, and in which they have caused extreme noise and other disturbances, is hereinafter referred to as the “Occupation Zone”, and is bounded in the following way:

Wellington Street from Bay Street to Sussex Drive, Sussex Drive from Wellington Street to St. Patrick Street, St. Patrick Street from Sussex Drive to King Edward Avenue, Kind Edward Avenue from St. Patrick 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 West 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 Sparks Street, Sparks Street from Bronson Avenue to Bay Street, Bay Street from Sparks Street to Wellington Street.

43. On a map, the Occupation Zone is depicted in the following way:



44. The Plaintiff Li brings this action pursuant to the *Class Proceedings Act, 1992* on her own behalf and on behalf of all other persons who reside within the Occupation Zone in downtown Ottawa, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Resident Subclass.

45. 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 Subclass.

46. The Plaintiff John 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 Subclass.

ORGANIZING THE FREEDOM CONVOY OCCUPATION

47. In December 2021, the Organizer Defendants 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 have a convoy of vehicles, including a large number of semi-trailer-tractor trucks, 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 five days. The Organizer Defendants Bauder, Barber, King, Lich, Dichter, and Belton were all involved together in this original “Operation Bearhug” plan.

48. In early January 2022, the Organizer Defendants decided to expand Operation Bearhug. The new plan, called “Freedom Convoy 2022”, was to organize operators of

semi-trucks and semi-truck-trailers and other large vehicles to drive from different parts of Canada and to occupy downtown Ottawa for an indefinite period until their political demands were met. The common intention of the Organizer Defendants and the Trucker Defendants was to substantially interfere with and disturb all downtown Ottawa residents and businesses with their occupation, and thereby compel the Government of Canada to meet their demands to drop all COVID-19 public health measures.

49. On or around January 14, 2022, the Organizer Defendants Barber, Dichter and Lich created a Facebook page called “Freedom Convoy 2022” which they 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.

50. 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 Defendants.

51. On or around January 23, 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.

52. On their 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 Plaintiffs and the class members.

53. The Organizer Defendants and the Trucker Defendants also solicited donations personally to assist with their common plan to travel to and occupy Canada's capital, and to seriously interfere with the rights of the Plaintiffs.

54. The Defendants discussed the common goals that they hoped to achieve by organizing the Freedom Convoy, which included forcing Prime Minister Justin Trudeau and the federal government to announce an immediate repeal of all COVID19 public health measures.

55. The Defendants discussed and coordinated plans for how they would occupy Ottawa and how they would attempt to reach their common goals. The Organizer Defendants discussed setting up a "war room" to further strategize once they reached Ottawa.

56. One of the main tactics coordinated 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 Ottawa's downtown. To make that noise, the Organizer Defendants planned, organized, encouraged and directed Trucker Defendants and other Freedom Convoy participants to continuously blast the horns of their vehicles, as described further below. The Organizer Defendants also planned, organized, encouraged and directed Trucker Defendants and other Freedom Convoy participants to occupy Ottawa streets continuously with their vehicles running 24 hours per day.

SETTING UP IN OTTAWA AND CREATING THE OCCUPATION ZONE

57. Starting on or around Friday, January 28, 2022, Freedom Convoy vehicles started to arrive in Ottawa. These vehicles included tractor trailers, tractors with no trailers, passenger vehicles, and large recreational vehicles ("RVs").

58. When they arrived in Ottawa, as planned the Freedom Convoy vehicles began to congregate and to block many of the streets surrounding Parliament Hill and in the surrounding neighbourhoods.

59. Several hundred vehicles have remained camped out in Ottawa's downtown since January 28, 2022, lined up bumper-to-bumper. The clusters of vehicles are predominantly concentrated on 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 join the Convoy occupation, with trucks blocking many other downtown Ottawa streets for days at a time.

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

61. In furtherance of the common design of the Defendants, the trucks remain 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, Jansen, LaFace, Belton and Bulford have been responsible for organizing and coordinating the delivery of supplies to drivers.

62. These large vehicles have remained idling or running 24 hours per day, emitting noxious diesel fumes, particulates and gases.

PLANNING AND LOGISTICS

63. In furtherance of their common design, the Organizer Defendants have set up staging areas to stockpile fuel and other supplies for the occupying trucks, and to arrange and coordinate their delivery. For logistical reasons, the Organizer Defendants established these staging areas 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 are designed to avoid, frustrate or

thwart any effort by authorities to break the supply lines of fuel and food to the truck drivers blocking Ottawa streets.

64. The Freedom Convoy staging areas or camps were established by the Organizer Defendants at 300 Coventry Road (RCGT Park and 1500 Bronson Avenue (the RA Centre).

65. In furtherance of their common design, the Defendants established communication lines between each other and with all the participants in the Freedom Convoy Occupation. The Organizer Defendants often communicate to the occupation participants through live stream videos on various social media channels, including Facebook, Youtube, Tiktok and Telegram. The Defendants also communicate with each other through other applications such as Zello.

66. In furtherance of their common design, the Organizer Defendants established a “war room” in downtown Ottawa to meet, plan and discuss the strategy, funding, tactics and logistics of the ongoing occupation. The war room is set up in one of the downtown Ottawa hotels, and moves occasionally. It was initially set up in the Holiday Inn at 402 Queen Street, but later moved to the Arc Hotel at 140 Slater Street. Freedom Convoy occupiers in need of food, lodging or other supplies contact the war room to request financial and logistical support.

67. The raising, collection and disbursement of funds to support the unlawful activities of the Freedom Convoy participants are the primary means by which the common design is effected by the Defendants. The Organizer Defendants expressly raised and disbursed funds to support the indefinite truck blockade of public streets and roadways, the non-stop idling of trucks and associated air pollution, and the extreme and incessant honking.

68. The Defendant corporation Freedom 2022 was established by the Organizer Defendants on its board of directors to raise funds through donations to GiveSendGo, an online donation platform. The funds held by the Defendant Freedom 2022 were

raised expressly to support the unlawful activities of the Trucker Defendants and other Freedom Convoy participants.

69. The Defendants St. Louis and Barber established a Bitcoin fundraiser 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.

70. 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.

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

HORN TACTIC AND OTHER EXTREME NOISE

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

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

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

75. 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.

76. Initially, this honking would last from approximately 7AM to 1AM. On or around February 1, 2022, a new timeframe was coordinated for the honking, which now occurs from approximately 8AM to 11PM.

77. The Defendants have taken to social media and Zello to celebrate the honking and to encourage participants to continue employing this tactic.

78. The types of horns that have been employed as part of the horn-blasting tactic include air horns, which are only to be used for safety warnings, and train horns.

79. Operator manuals for the types of horns being used by the Freedom Convoy provide warnings that they produce “extreme loudness” and can cause permanent hearing damage.

80. The Defendants are aware that the honking noise is extreme and can cause harm or distress. The Defendants organized, purchased and distributed ear plugs to protestors to protect themselves from the extreme sound levels of their horn tactic while it disturbed and caused harm to the class members.

81. The Organizer Defendants have also arranged for the purchase of fireworks and the rental or use of loud amplification systems.

82. The Organizer Defendants encouraged, directed or permitted Freedom Convoy participants to discharge fireworks in downtown Ottawa at all hours of the night. The fireworks are discharged on city streets in dangerously close proximity to buildings where Resident Subclass Members reside.

83. The Organizer Defendants have encouraged and allowed the loud amplification systems to blast music at excessively loud levels until late at night for every night of

the occupation. In furtherance of the common design, the Organizer Defendants wanted to cause as much discomfort and sleep deprivation to the Resident Subclass Members as possible.

DEFENDANTS' CONDUCT IS UNLAWFUL

84. The Plaintiffs plead that the Defendants' ongoing and concerted horn-blasting tactic is unlawful.

85. The Defendants' conduct is clearly prohibited by sections 2, 3 and 15 of the City of Ottawa Noise By-Law, By-Law No. 2017-255.

86. 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.

87. 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.

88. 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, revving of engine and the squealing of tires of any motor vehicle on any property other than a highway.

89. The Defendants' horn-blasting tactic also violates 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.

90. The level of noise emitted by the Defendants also exceeds the noise levels that would be permitted in a workplace setting, contrary to the Federal Occupational Health and Safety Regulations, SOR/86-304 enacted pursuant to the *Canada Labour*

Code, RSC, 1985 c. L-2 and contrary to the Ontario Noise Regulation 381/15 enacted pursuant to the *Occupational Health and Safety Act*, RSO 1990, c 01.

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

92. 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.

93. In addition to the horn-blasting tactic, the Defendants have engaged in other unlawful activity with respect to idling, blocking roads, noise, and fireworks. The Defendants' conduct in this regard is unlawful, as it violates following By-Laws of the City of Ottawa: Use and Care of Roads By-law 2003-498; Idling Control By-Law 2007-266; Noise By-Law 2017-255; Fireworks By-law 2003-237 and Encroachment By-Law 2003-446.

94. The Defendants' conduct with respect to the continuous idling of their 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.

95. 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(a), (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.

IMPACT ON RESIDENT SUBCLASS

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

97. Fireworks can be staggeringly loud, with decibel levels between 120 and 150. Though short in duration, fireworks are so loud that they can damage hearing.

98. 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.

99. 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.

100. 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.

101. 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.

102. 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.

103. The truck horns are causing moral and psychological harm to the Resident Subclass Members. The horns are substantially interfering with the private use and

enjoyment of their homes. With horns ending as late as 1am, and no earlier than 11pm, Resident Subclass Members are experiencing significant sleep disturbances.

104. For the Resident Subclass Members, the use of fireworks and sound amplification systems are further interfering with the private use and enjoyment of their homes. The fireworks have been discharged by Freedom Convoy participants as late as 3am on some nights. For Resident Subclass Members with post traumatic stress disorder and other mental health issues, the unexpected fireworks can be especially distressing and harmful.

105. Resident Subclass Members who leave their homes for work, school, groceries, medical appointments or necessities experience significantly elevated sound exposure on the street. Some Resident Subclass Members are avoiding going out as much as possible and are prisoners in their own homes. Others have been forced to leave their homes and find alternate accommodation. The Resident Subclass Members are living in daily torment caused by the incessant blasting of truck horns.

106. Resident Subclass Members are sometimes impeded from leaving their homes due to gridlock on their streets caused by the Convoy occupation vehicles. This is causing Resident Subclass Members to miss or be late for work, school and appointments.

107. Resident Subclass Members are also experiencing significant difficulty from the diesel fumes of the congregated semi-trucks. There are approximately 300 to 500 semi-trucks in the Occupation Zone at any time, idling their engines and emitting diesel fumes that negatively impact the health and well-being of the Resident Subclass Members.

IMPACT ON BUSINESS SUBCLASS

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

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

110. For those businesses that have remained open during the Convoy occupation, they have experienced a loss of revenue as a result of customers avoiding the businesses within the Occupation Zone.

IMPACT ON EMPLOYEE SUBCLASS

111. Individuals employed by businesses located in the Occupation Zone have also suffered significant income losses due to the public nuisance created by the Defendants.

112. As a result of the blocked roads, loud and constant noise, and emission of diesel fumes, many businesses within the Occupation Zone have been forced to close. While some businesses have remained open, those businesses have experienced fewer customers.

113. Employee Subclass Members have either been unable to work, or unable to work usual hours, as a result of the Defendants' conduct. This has resulted in wage losses for Employee Subclass Members.

PERSONAL EXPERIENCE OF PLAINTIFF LI

114. The Plaintiff Li, a resident of the Centretown neighbourhood in the heart of downtown Ottawa, has suffered mental distress, suffering and torment as a result of the persistent and loud honking from several large trucks which have been camped outside of her residence since Friday, January 28, 2022.

115. While some of the honking sounds are from regular sized motor vehicle horns, the loudest and most persistent honks have come from large transport trucks. Some of

these trucks are equipped with horns that emit loud honking noises typical of vehicles of their size. A number of the trucks are equipped with horns which are similar in tone and volume to train horns.

116. From within her unit, the sound of all three types of honking horns persist at regular and frequent intervals from morning to night, sometimes as late as 1:30 am. With the exception of some short periods of reprieve late in the night, the sound feels to the Plaintiff as if it is nearly constant. The honking of the horns is frequently accompanied by loud music, sounds of shouting and fireworks. The combination of these sounds makes the Plaintiff feel as though she is living in a war zone.

117. The honking horns, in particular, have interfered with the sense of peace, safety and serenity which the Plaintiff previously enjoyed in her home. During the brief periods when the sound of honking horns subsides, the Plaintiff is unable to enjoy the relative quiet because she becomes riddled with anxious anticipation for the moment it will start up again. The Plaintiff has found this anxious anticipation almost as unbearable as the sounds of the horns themselves.

118. The Plaintiff has been unable to enjoy a restful night's sleep since the Freedom Convoy arrived in her neighbourhood. The only way the Plaintiff can fall asleep and temporarily escape the noise is by playing music on external speakers at 70-80% volume and then inserting noise-cancelling earphones or earplugs into her ears.

119. The Plaintiff is fearful every time she ventures outside. She does not leave her residence without first inserting noise-cancelling headphones into her ears. Even with these devices in her ears, the Plaintiff can still hear the sounds of the honking horns very clearly. The sound is so loud that she can physically feel vibrations inside her ears.

120. When the Plaintiff ventures outside, she is almost immediately subjected to heckling by members of the Freedom Convoy, yelling at her to remove the mask she wears to protect herself and others from contracting COVID-19. When she ignores the

heckles, members of the Convoy respond by honking their horns which invariably causes the Plaintiff to flinch. When the Plaintiff flinches, the hecklers cheer loudly.

121. Since Friday January 28, 2022, the Plaintiff has contacted the Ottawa Police Service on at least 14 occasions to complain about the noise and the distress it is causing her. In response to her calls, she has either been told that there's nothing that can be done or that there are officers on the ground who will address the issue, but no one ever comes and the noise continues unabated. The sense that police are impotent to enforce law and order has contributed to the Plaintiff's fear and anxiety which are further exacerbated by the intolerable levels of noise.

122. The Plaintiff loves her community and is heartbroken by the trauma that is being inflicted on her and her neighbours.

EXPERIENCE OF THE PLAINTIFF UNION: LOCAL 613

123. 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").

124. 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.

125. The impacts of the global COVID-19 pandemic, and the public health measures which have been 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.

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

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

128. While Union: Local 613 has remained open to in-person diners since January 31, 2022, the impacts on the business have been profound. Mr. Gedz estimates that Union: Local 613's revenues have decreased from between 25% and 50% of what he would have expected to earn in the context of Provincial regulations limiting in-person dining to 50% capacity.

129. Since reopening, Mr. Gedz has observed that throughout the week the restaurant gets fully booked with weekend reservations as he would expect based on his experience throughout the pandemic when the restaurant has been permitted to open. As the weekend approaches, however, and the disturbances with the Freedom Convoy continue to be unresolved, most if not all reservations made in the course of the week have been cancelled.

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

131. Furthermore, the two parking lots most proximate to Union: Local 613 on the north and south sides of Somerset Street West between O'Connor Street and Bank Street have been fully occupied all night by Freedom Convoy vehicles, making it difficult for diners to park their cars near the restaurant.

132. More generally, the presence of so many trucks in the downtown core has deterred prospective diners from surrounding communities from attending the area

because it is difficult to get around by car. Consequently, very few diners have attended Union: Local 613 since its January 31, 2022 reopening who don't reside in the immediate neighbourhood. The general atmosphere of chaos and lawlessness in the downtown core has people avoiding the area when they can.

PRIVATE NUISANCE

133. The incessant blaring of the high decibel air horns and train horns substantially interferes with the private use and enjoyment of the Resident Subclass Members' homes and has caused serious physical and psychological harm. The conduct is totally unreasonable and unjustified.

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

135. The discharge of fireworks dangerously close to residential homes and buildings, at all hours of the day and night, substantially interferes with the private use and enjoyment of the Resident Subclass Members' homes and has caused serious physical and psychological harm, particularly for those who are vulnerable with pre-existing mental health issues or illnesses. The conduct is totally unreasonable and unjustified.

136. The use of loud amplification systems at high sound levels for several hours every night, for days and now weeks at a time, substantially interferes with the private use and enjoyment of the Resident Subclass Members' homes and has contributed to the psychological harm experienced by many. The conduct is totally unreasonable and unjustified.

137. The activities described above, alone and in combination, constitute a private nuisance perpetrated on the Resident Subclass Members. The Organizer Defendants planned, encouraged, facilitated, supported, promoted and directed these activities amounting to private 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.

138. The Organizer Defendants and the Trucker Defendants carried out the tortious private nuisance activities in concert with the common intention of causing discomfort, distress and harm to the Resident Subclass 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

139. Since January 28, 2022, the Freedom Convoy occupiers, including the Defendants, have engaged in activities in the Occupation Zone that have constituted a serious attack on the public's right to live their lives unaffected by substantial interference with their own daily activities. The activities described below have unreasonably interfered with the public's interest in health, safety, comfort and convenience, amount to a public nuisance.

140. The Trucker 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 has substantially interfered with people going to work, school, or appointments, and has 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*.

141. The incessant blaring of the high decibel air horns and train horns in downtown Ottawa unreasonably interferes with the health, safety, and comfort of all subclass members and the public at large.

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

143. The use of loud amplification systems at high sound levels on public streets for several hours every night, for days and now weeks at a time, unreasonably interferes with the health, safety, and comfort of all subclass members and the public at large.

144. The activities described above, alone and in combination, constitute a public nuisance perpetrated on the Resident Subclass Members, the Business Subclass Members and the Employee Subclass 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.

145. The Organizer Defendants and the Trucker Defendants carried out the tortious public nuisance activities in concert with the common intention of causing discomfort, distress and harm to the the subclass 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 SUBCLASS MEMBERS

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

- (a) emotional and mental distress;
- (b) difficulty concentrating;
- (c) interference with quiet enjoyment of home;
- (d) headaches; and
- (e) difficulty sleeping.

147. The estimated damages per Resident Subclass Member is \$200 per day of the continued use of the unlawful horn tactic.

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

DAMAGES SUFFERED BY BUSINESS SUBCLASS MEMBERS

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

DAMAGES SUFFERED BY EMPLOYEE SUBCLASS MEMBERS

150. 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 Subclass Members were laid off or experienced reduced hours of work. The Employee Subclass Members experienced damages in the form of loss of wages.

PUNITIVE DAMAGES

151. 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 Subclass Members in order to coerce the governments to comply with their demands. The non-stop blaring horns, diesel fumes, unexpected fireworks, and loud sound systems blasting music have caused the Resident Subclass Members unbearable torment in the sanctity of their own homes. The Defendants are aware or ought to be aware that these tactics can cause permanent physical damage and psychological harm. The Defendants have acted with wanton disregard towards the residents, businesses and workers of Ottawa.

152. 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.

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

Dated this 4th day of February, 2022.

Fresh as Amended Claim issued __ day of February, 2022.

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ZEXI LI

- and -

CHRIS BARBER, BENJAMIN
DICHTER, TAMARA LICH, PATRICK KING and
JOHN DOES 1-60

Plaintiff (Moving Party)

Defendants (Responding Parties)



AMENDED THIS 18 DAY / JOUR
MODIFIÉE DE February 22
OF / DE 20
PURSUANT TO RULE 26.02(c)
CONFORMÉMENT A LA REGLE
OR ORDER RSJ Macleod
OU A L'ORDONNANCE 17
DATED THIS / FAIT CE Feb 22
DAY / JOUR OF / DE 20
REGISTRAR, SUPERIOR COURT OF JUSTICE
GREFFIER, COUR SUPÉRIEURE DE JUSTICE

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT OTTAWA

Proceedings under the *Class Proceedings Act*, 1992

FRESH AS AMENDED STATEMENT OF CLAIM

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