

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

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
7983794 CANADA INC (c.o.b. as UNION: LOCAL 613)
And GEOFFREY DELANEY**

Plaintiffs

and

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHLOAS ST. LOUIS (a.k.a. @NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC,
JACOB WELLS, HAROLD JONKER, JONKER TRUCKING INC.
and BRAD HOWLAND**

Defendants

Proceeding under *Class Proceedings Act, 1992*

SUPPLEMENTAL MOTION RECORD
VOLUME 2 of 2

(Motion pursuant to section 137.1(3) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43)

November 30, 2023

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2022 Human Rights and Freedoms

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TABLE OF CONTENTS

VOLUME 1 of 2		
TAB	DOCUMENT	PAGE NO.
AFFIDAVITS		
1	Affidavit of Chantal Laroche, August 31, 2023	1
	Exhibit “A” – Curriculum Vitae of Chantal Laroche	13
	Exhibit “B” – Affidavit of Sean Flynn, February 14, 2022	50
	Exhibit “C” – Affidavit of Sean Flynn, September 30, 2022	56
	Exhibit “D” – Affidavit of Aaron Bernard	91
	Exhibit “E” – Health Canada	123
	Exhibit “F” – POEC Transcript	127
	Exhibit “G” – Form 53 Certificate	194
2	Affidavit of Debbie Owusu-Akyeeah, September 1, 2023	199
	Exhibit "A" copy of the "What we heard report".	207
3	Affidavit of Ivan Gedz, August 31, 2023	280
	Exhibit “A” - CBC story dated February 10, 2022, "Governments talk as Ottawa businesses plead for urgent help amid protest"	285
4	Affidavit of Jeremy King, September 1, 2023	293
	Exhibit "A" - copy of Lich's Facebook post dated February 12, 2022	298
5	Affidavit of Larry Andrade, August 30, 2023	300
	Exhibit “A” -Curriculum Vitae	321
	Exhibit "B" - Acknowledgment of Expert’s Duty	325
	Exhibit “C” - "Damages Quantification"	327
6	Affidavit of Sean Flynn, August 31, 2023	331
	Exhibit “A” video recorded and posted to Twitter on January 29, 2022.	341
	Exhibit “B” video recorded and posted to Twitter on January 30, 2022.	343
	Exhibit “C” video recorded and posted to Twitter on February 5, 2022.	345
	Exhibit “D” video recorded and posted to Twitter on February 8, 2022.	347
	Exhibit “E” 55 second video recorded and posted to Twitter on February 12, 2022.	349
	Exhibit “F” 30 second video recorded and posted to Twitter on February 12 2022.	351
	Exhibit “G” 49 second video recorded and posted to Twitter on February 12, 2022.	353
	Exhibit “H” video recorded and posted to Twitter on February 15, 2022.	355
	Exhibit “I” video recorded and posted to Twitter on February 16, 2022.	357
	Exhibit "J" are copies of the photos posted to Twitter on February 19, 2022.	359
7	Affidavit of Trudy Moore, September 1, 2023	366
	Exhibit “A” is a copy of Mr. Bulford’s Affidavit dated February 5, 2022	376
	Exhibit “B” is a copy of Volume 1 (Overview) of the POEC Report	382
	Exhibit “C” is an excerpt from Volume 2 (Analysis Part 1) of the POEC Report (Chapter 9, section 3)	655

	Exhibit “D” - Health Canada Report, Human Health Risk Assessment for Diesel Exhaust	664
VOLUME 2 of 2		
7 cont.	Affidavit of Trudy Moore, September 1, 2023 Continued	
	Exhibit “E” - Message from Ottawa Public Health regarding convoy-related air quality concerns	710
	Exhibit “F” - Ontario Provincial Police Operations Intelligence Report dated February 14, 2022	713
	Exhibit “G” - Restraint Order dated February 10, 2022	758
	Exhibit “H” - Affidavit of Christopher Rhone affirmed February 10, 2022 for Attorney General for Ontario Application for Restraint Order	763
	Exhibit “I” - Facebook post by James Bauder dated December 13, 2021	791
	Exhibit “J” - CityNews article (July 9, 2022), “‘Freedom Convoy’ organizers discussed playing ‘race card’ with Métis heritage”	794
	Exhibit “K” - Freedom Convoy 2022 Official Daily Event and Safety Report dated February 12, 2022	801
	Exhibit “L” - Freedom Convoy 2022 Official Daily Event and Safety Report dated February 13, 2022	804
	Exhibit “M” - printout of the Amazon webpage for Lich’s book	807
	Exhibit “N” - printout from the “Media” tab of the website for Lich’s book	810
	Exhibit “O” - printout from the Eventbrite website page for Lich’s cross-country book tour	820
	Exhibit “P” - printout of the Amazon webpage for Dichter’s book	831
	Exhibit “Q” - printout of the Amazon webpage for Quiggin’s book	834
	Exhibit “R” - printout from the landing page of Tom Marazzo’s website	836
	Exhibit “S” – printout from Marazzo’s website tab for “Booking Tom” and also a “Media” tab which lists some of his speaking engagements	845
	Exhibit “T” - Copy of a CTV News article dated August 5, 2023	854
	Exhibit “U” is a printout of the “Past Events” tabs from the Freedom Fighters Canada website	858
8	Affidavit of Zexi Li, September 1, 2023	863
	Exhibit “A” - CBC media reports dated February 8, 2023 and February 13, 2023	872
	Exhibit “B” - true copy of the February 7, 2022 interim injunction order	885
	Exhibit “C” - true copy of the transcript of the February 7, 2022 proceedings on the motion for an interim injunction order including the Reasons for Judgment	889
	Exhibit “D” - true copy of the February 16, 2022 injunction order	999
	Exhibit “E” is a true copy of the transcript of the February 16, 2022 proceedings on the motion for an injunction order including the Reasons for Judgment	1003
9	Affidavit of Joe Janzen, August 21, 2023	1036
TRANSCRIPTS OF CROSS EXAMINATION BY PAUL CHAMP		
10	Daniel Bulford Transcript, September 15, 2023	1048
	Exhibit “1” – Affidavit of Daniel Bulford, sworn February 5, 2022	1067
11	Dale Enns Transcript, September 15, 2023	1072

12	Miranda Gasior Transcript, September 15, 2023	1094
13	Brad Howland Transcript, September 15, 2023	1114
14	Joe Janzen Transcript, September 15, 2023	1130
15	Harold Jonker Transcript, September 15, 2023	1148
16	Sean Tiessen Transcript, September 15, 2023	1170
	Exhibit "1" – Code of Conduct	1183
	Exhibit "2" – Registration Forms	1184
OTHER PLEADINGS AND PROCEEDINGS		
17	Statement of Claim, February 4, 2022	1187
18	Fresh Amended Statement of Claim, February 18, 2022	1203
19	Further Fresh Amended Statement of Claim, March 14, 2022	1240
20	Transcript of Proceedings, February 7, 2023	1297

This is Exhibit E referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
day of September 2023.


A COMMISSIONER FOR TAKING AFFIDAVITS

From: May, Chrissy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D05732291E9D464A910877418EFD88A3-LECLERCCH]
Sent: 2/18/2022 12:38:24 PM
To: Cochrane, Kelly [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0a92d9d09ef44dac92a90a1c3dc99525-cochraneke]; Pyper, Todd [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4524cfb8d5694723bc68c40ca78d129f-pyperto]; Scapillati, Silvia [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f40dae2f02943b0a0ae3b6aebadccf3-scapillasi]; Caron, Trisha (Police) [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3dd35d2ae24040c18bd15c6714775c3a-CaronPMCoOP]; Roberts, Eustace (Police) [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e6641f5e52f349b19f82ed51a86d24ad-RobertEACoO]
CC: Ferguson, Michael [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d4457d08a2584378ae709a19a4001aa2-fergusonmi]; Cowell, Victoria [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b85a2e7b0166444b851641dcbf60475c-cowellvi]; Lavery, Melissa [/O=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b9512c87bf5f4948a630de3666bf3e79-laveryme]
Subject: Message from Ottawa Public Health regarding convoy related air quality concerns

Good morning,

Sharing with you messaging that OPH developed and requested that we share with our colleagues who are working or traveling in the PZ.

Would you mind sharing with your colleagues at the NCRCC?

Thank you kindly,
Chrissy

On behalf of the EOC, we are sharing messaging from Ottawa Public Health. Intended to provide guidance and highlight the risks associated with exposure to diesel exhaust. This information may also help complement the enforcement of the injunction and idling by-law, and reinforces the importance of removing the hazard.

Please see below for a message from OPH regarding air quality concerns related to the ongoing truck demonstration:

Ottawa Public Health has received numerous concerns regarding idling vehicles that are part of the truck occupation of the downtown areas of Ottawa. We have responded with information and advice that is consistent with the City and Ottawa Police Services who are leading this emergency response as follows:

“The City and the Ottawa Police Service (OPS) have been managing multiple dimensions of the protest with the health and safety of city staff, the public, and protesters first and foremost in their planning.

The outdoor air monitor in Ottawa operated by ECCC and the MECP has not indicated any issues of concern this past week. The monitor is located downtown close to Rideau

<http://www.airqualityontario.com/aqhi/today.php?sites=51001> and measures regional air quality in the City of Ottawa, not point source pollution. This monitor cannot determine the air quality close to a point source of air pollution. For this reason, ambient air quality can be “low risk” while at the same time, very near a point source, the risk level could be higher. For this reason and many others, the public has been asked not to enter the zone of impact downtown. Ottawa Public Health is supportive of all efforts from the City and OPS to address the source of these air quality concerns. I am providing this link to information on the health risks of air pollution from Health Canada for your information: <https://www.canada.ca/en/environment-climate-change/services/air-quality-health-index/health-risks.html>. “

However, as the protest has become entrenched and become an on-going occupation, the potential risk of exposure to diesel exhaust, that has well documented health concerns, has increased for those in impacted areas. As a result, we would like to bring this to your attention and ask that you share this with any agency conducting health and safety risk assessments during this event, including the EOC, Ottawa Police Services Integrated Command and by extension the Children’s Aid Society of Ottawa. We are aware that there are several sub-populations amongst the demonstrators (e.g., children, pregnant women, and people with pre-existing cardiovascular and respiratory conditions) who would likely have prolonged exposure to the diesel exhaust pollution and who are particularly vulnerable to poor air quality. At this time, OPH does not think point source monitoring would contribute significantly to a risk assessment because it is already known that spending time in areas impacted by diesel exhaust is something that should be avoided.

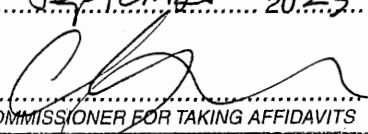
Health Canada and other health and environment authorities concur that diesel emissions have direct and immediate effects on human health as well as longer term health impacts. The very small particles in diesel exhaust are small enough to penetrate deep into the lungs, where they contribute to a range of health problems. Diesel exhaust can irritate the eyes, nose, throat and lungs, and it can cause coughs, headaches, lightheadedness and nausea. Studies have found that diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also causes inflammation in the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks. The elderly and people with emphysema, asthma, and chronic heart and lung disease are especially sensitive to fine-particle pollution. Numerous studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks and premature deaths among those suffering from respiratory problems. Diesel exhaust has been identified as a carcinogen. Because children's lungs and respiratory systems are still developing, they are also more susceptible than healthy adults to fine particles. Exposure to fine particles is associated with increased frequency of childhood illnesses and can also reduce lung function in children. For these reasons, exposure to diesel emissions should be limited in both the short and long term.

Should you have any questions, please contact,

Mike

Michael Ferguson, BSc, MSc
Program Manager, Environmental Health / Gestionnaire de Programme, Santé environnementale
Ottawa Public Health | Santé publique Ottawa
100 Constellation Dr., 8E / 100, prom. Constellation, 8E, Ottawa, ON K2G 6J8
613.580.6744 ext. 22005 | 613.580.9648 | michael.ferguson@ottawa.ca

This is Exhibit G referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
day of September 2023.


A COMMISSIONER FOR TAKING AFFIDAVITS

**ONTARIO
SUPERIOR COURT OF JUSTICE
(East Region)**

IN THE MATTER OF an Application by the Attorney General for Ontario for an order restraining monetary donations made through the Freedom Convoy 2022 and Adopt-a-Trucker fundraising campaign pages hosted by GiveSendGo pursuant to section 490.8 of the *Criminal Code*.

RESTRAINT ORDER

UPON THE *EX PARTE* APPLICATION in writing made this day by the Attorney General for Ontario for an order pursuant to section 490.8 of the *Criminal Code*.

AND UPON READING the Notice of Application and the Affidavit of Christopher Rhone, peace officer and member of the Ottawa Police Service, accompanying the Application.

AND UPON BEING SATISFIED that there is no requirement of notice of this application as giving notice would result in the disappearance, dissipation, or reduction of value of the property sought to be restrained.

AND UPON BEING SATISFIED that pursuant to section 490.8(3.1) of the *Criminal Code*, this order may be issued in respect of property situated outside Canada.

AND UPON BEING SATISFIED that there are reasonable grounds to believe the property described below is offence-related property:

Any and all monetary donations made through the Freedom Convoy 2022 and Adopt-a-Trucker fundraising campaign pages hosted by GiveSendGo (www.givesendgo.FreedomConvoy2022, www.givesendgo.com/Warroomcanadanet, respectively), including monetary donations which have been transferred by GiveSendGo or its third-party payment processors to the benefit of the campaign recipients as named on the said campaign pages, being “Chris Garrah” and “Incorporated Freedom 2022 Human Rights and Freedom Association”, or to the company “Freedom 2022 Human Rights and Freedoms” (Canadian corporation number 1372685-1).

[the property]

Restraint Order - Page 2


1. **THIS COURT ORDERS** that all persons, including but not limited to GiveSendGo and its third party payment processors, designates and agents, Chris Garrah or designate, Freedom 2022 Human Rights and Freedoms and its directors, officers, employees or designates, and financial institutions, are prohibited from disposing of, or otherwise dealing with, in any manner whatsoever, any interest in the property, except as hereinafter provided.
2. **THIS COURT FURTHER ORDERS** that the respondents shall, upon written request of the Director of Asset Management – Criminal or his representative, provide said person with reasonable information regarding the status of the property, including but not limited to, the balance of all donations held in relation to the Freedom Convoy 2022 and Adopt-a-Truck fundraising campaigns, as described above.
3. **THIS COURT FURTHER ORDERS** that a copy of this order be served in accordance with the *Criminal Proceedings Rules* upon the following persons:
 - a. GiveSendGo LLC
 - b. Freedom 2022 Human Rights and Freedoms (Corporation Number 1372685-1)
 - c. Chris Garrah
4. **THIS COURT FURTHER ORDERS** that no variation shall be made to this order other than by order of this Court on application in accordance with the *Criminal Proceedings Rules* served on all affected parties, however, provided that counsel for the Attorney General for Ontario may, on three clear days' notice to any affected parties, apply to a Judge of this Court to vary, amend, add, or delete terms in relation to this order, or to terminate this order.
5. **THIS COURT FURTHER ORDERS** that service of any documents or notices of any application on the Attorney General for Ontario or the Director of Asset Management - Criminal shall be served at the Crown Law Office – Criminal, 720 Bay Street, 10th Floor, Toronto, Ontario, M7A 2S9.

Restraint Order - Page 3

6. **THIS COURT FURTHER ORDERS** that, as provided by subsection 490.8(8) of the *Criminal Code*, this order as it relates to the restraint of offence-related property remains in effect until:

- a) An order is made under subsection 490(9) or (11), 490.4(3) or 490.41(3) in relation to the property; or
- b) An order of forfeiture of the property is made under section 490 or subsection 490.1(1) or 490.2(2).

Dated at Ottawa, Ontario, this 10 day of February , 2022.



A.C.J.S.C.J.

Judge, Ontario Superior Court of Justice

TAKE NOTICE:

Section 490.8(9) of the Criminal Code provides as follows: Any person on whom a restraint made under this section is served in accordance with this section and who, while the order is in force, acts in contravention of or fails to comply with the order is guilty of an indictable offence or an offence punishable on summary conviction.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(East Region)**


IN THE MATTER OF an Application by the Attorney General for Ontario for an order restraining monetary donations made through the Freedom Convoy 2022 and Adopt-a-Trucker fundraising campaign pages hosted by GiveSendGo pursuant to section 490.8 of the *Criminal Code*.

RESTRAINT ORDER

MINISTRY OF THE ATTORNEY GENERAL

Crown Law Office – Criminal
720 Bay Street, 10th Floor
Toronto, ON M7A 2S9

Phone: 416-326-4600
Email: RFO@ontario.ca

This is Exhibit H referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
day of September 2023

A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
(East Region)**

IN THE MATTER OF an Application by the Attorney General for Ontario for an order restraining monetary donations made through the Freedom Convoy 2022 and Adopt-a-Trucker fundraising campaign pages hosted by GiveSendGo pursuant to section 490.8 of the *Criminal Code*.

BETWEEN:

HER MAJESTY THE QUEEN

Applicant

and

**GIVESENDGO
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS
CHRIS GARRAH**

Respondents
(*ex parte*)

AFFIDAVIT OF CHRISTOPHER RHONE

A.	Overview	3
B.	My Qualifications	4
C.	Statutory Requirements: Restraint of Offence-Related Property	5
D.	The Indictable Offence to which the Property Relates	6
E.	Description of the Property and Persons Believed to be in Possession.....	6
F.	The Property is Offence-Related Property	7
	Sources of Information.....	7
	The Protest	7
	The Freedom Convoy 2022 Protest Movement.....	7
	The Mischief Committed and My Reasonable Belief that the Mischief will Continue.....	10
	The GoFundMe Fundraiser	16
	The GiveSendGo Fundraisers	17
	Freedom Convoy 2022	18
	Adopt-a-Trucker	20
	GiveSendGo Payment Processing	21
G.	Conclusion.....	22

H. *Ex Parte* Application.....23
I. Notice of the Restraint Order.....25

AFFIDAVIT

I, **CHRISTOPHER RHONE**, a peace officer and member of the Ottawa Police Service, **MAKE OATH AND SAY AS FOLLOWS:**

A. OVERVIEW

1. I make this affidavit in support of an *ex parte* Application by the Attorney General for Ontario pursuant to section 490.8 of the *Criminal Code* for an order prohibiting any person from disposing or, or otherwise dealing with, any interest in funds collected through the online fundraising platform GiveSendGo (www.givesendgo.com) for the benefit of the “Freedom Convoy 2022” and “Adopt a Trucker” fundraising campaigns.

2. This application relates to the ongoing protest in Ottawa, Ontario known by its organizers and supporters as “Freedom Convoy 2022.” Freedom Convoy 2022 organizers set up a fundraising site on the online fundraising platform GoFundMe (www.gofundme.com) and raised over \$10 million USD in support of the protesters. On February 4th, 2022 GoFundMe terminated the fundraiser upon receipt of evidence from law enforcement that the protest had become an occupation with reports of violence and other unlawful activity. GoFundMe is automatically refunding all donor contributions.

3. Following the termination of the GoFundMe fundraising campaign, Freedom Convoy 2022 launched a new fundraising campaign on the GiveSendGo site. To date, the GiveSendGo Freedom Convoy 2022 fundraising campaign has raised over \$8.1 million USD in aid of assisting truckers with the cost of their journey and associated expenses including fuel, food, and shelter. The Freedom Convoy 2022 campaign page features a video message from Freedom Convoy 2022 organizer and fundraiser Tamara Lich in which she told supporters “... we plan to be here for the long haul, as long as it takes to ensure that your rights, and freedoms, are restored.”

4. In addition to the Freedom Convoy 2022 fundraising campaign, GiveSendGo also hosts the “Adopt-a-Trucker” fundraising campaign on its platform. The Adopt-a-Trucker campaign operates in partnership with the Freedom Convoy 2022 campaign and to date has raised over \$666 thousand USD in aid of providing housing, water, food, accommodations, and shuttle services for protesting truckers.

5. The protest has been occupying Ottawa roads in the downtown core and public spaces since January 28th, 2022. On February 6th, 2022 the City of Ottawa declared a state of emergency. Ottawa residents and business owners are being negatively impacted by the sustained occupancy of protesters in the city.

6. I believe that the funds raised by the Freedom Convoy 2022 organizers through the Freedom Convoy 2022 and Adopt-a-Trucker campaigns hosted by the online GiveSendGo fundraising platform are facilitating the indictable offence of mischief which has been committed, is being committed, and is intended to be committed for so long as there are funds available to keep protesters and their trucks in Ottawa. As such, I believe the funds raised are offence-related property and the Attorney General for Ontario therefore seeks an order prohibiting any person from disposing of, or otherwise dealing with any interest in the funds.

B. MY QUALIFICATIONS

7. I am a peace officer with the Ottawa Police Service (OPS) currently assigned as a Detective in the Provincial Asset Forfeiture Unit. I have knowledge of the matters set out herein and believe the contents of this affidavit to be true.

8. I have been a member of the OPS since August 1997. Since then, I have been assigned to General Patrol, the Central Neighbourhood Office, the Youth Section, and the Organized Fraud Section. Throughout my years of service, I have been the lead investigator on many criminal investigations. I have also been the affiant of many different affidavits in support of seeking judicial authorizations.

9. In September 2014, I was assigned to the Provincial Asset Forfeiture Unit (PAFU). The description of the PAFU is as follows: “The Ontario Provincial Police (OPP) is responsible for the coordination of the Provincial Asset Forfeiture Strategy in Ontario and leads the Provincial Asset Forfeiture Unit (PAFU). PAFU involves officers from the OPP and 20 municipal police services across Ontario. The role of PAFU is to assist with the identification, seizure, restraint and forfeiture of offence-related property and proceeds of crime. The *Criminal Code* of Canada authorizes these actions for “any property, benefit or advantage derived from the commission of designated

offences”. Since 2005, the OPP has been instrumental in increasing awareness within the law enforcement community regarding asset forfeiture and its effectiveness as a crime deterrent.¹

10. I have successfully completed various levels of general and specialized police training, including but not exclusive to: General Investigative Techniques, Major Case Management, Financial Investigations, Fraud Investigations, Asset Forfeiture (Basic and Advanced), Drafting Information to Obtain (Search Warrants), and the Expert Witness Course.

11. I have created and subsequently presented numerous presentations relating to asset forfeiture for various police services, the Criminal Intelligence Service Ontario, the Canadian Police College, the Osgoode Hall Law School, and the Financial Crime Coordination Centre.

C. STATUTORY REQUIREMENTS: RESTRAINT OF OFFENCE-RELATED PROPERTY

12. “Offence-related property” is defined in section 2 of the *Criminal Code* as any property, within or outside Canada,

- a. by means or in respect of which an indictable offence under the *Criminal Code* of the *Corruption of Foreign Public Officials Act* is committed,
- b. that it is used in any manner in connection with the commission of such an offence, or
- c. that is intended to be used for committing such an offence.

13. Subsections 490.8(1) and (2) of the *Criminal Code* state that an application for an order restraining offence-related property may be made *ex parte* and shall be made in writing to a judge, accompanied by an affidavit sworn on information and belief, deposing to the following matters:

- a. The indictable offence to which the offence-related property relates;
- b. The person who is believed to be in possession of the offence-related property; and
- c. A description of the offence-related property.

14. Subsection 490.8(3) of the *Criminal Code* states that a judge may make an order prohibiting any person from disposing of, or otherwise dealing with any interest in, the property specified in the order if the judge is satisfied that there are reasonable grounds to believe that property is offence-related property.

¹ <https://www.publicsafety.gc.ca/cnt/cntrng-crm/plcng/cnmcs-plcng/ndx/snpss-en.aspx?n=74>

15. Subsection 490.8(3.1) provides that a restraint order may be issued in respect of property situated outside Canada, with any modifications that the circumstances require.

D. THE INDICTABLE OFFENCE TO WHICH THE PROPERTY RELATES

16. The indictable offence to which the property relates is mischief contrary to section 430 of the *Criminal Code*:

430(1) Every one commits mischief who wilfully

- a) destroys or damages property;
- b) renders property dangerous, useless, inoperative or ineffective;
- c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
- d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

430(4) Every one who commits mischief in relation to property...

- a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years; or
- b) is guilty of an offence punishable on summary conviction.

17. My grounds to believe that the offence of mischief has been committed and continues to be committed are set out below under the heading The Property is Offence-Related Property — The Protest.

E. DESCRIPTION OF THE PROPERTY AND PERSONS BELIEVED TO BE IN POSSESSION

18. I make my affidavit in support of an application by the Attorney General for Ontario for an order prohibiting persons from disposing of, or otherwise dealing with, any interest in the property described below, except as provided for in the terms set out in the proposed restraint order:

Any and all monetary donations made through the Freedom Convoy 2022 and Adopt-a-Trucker fundraising campaign pages hosted by GiveSendGo (www.givesendgo.FreedomConvoy2022, www.givesendgo.com/Warroomcanadanet, respectively), including monetary donations which have been transferred by GiveSendGo or its third-party payment processors to the benefit of the campaign recipients as named on the said campaign pages, being “Chris Garrah” and “Incorporated Freedom 2022 Human Rights and Freedom Association”, or to the company “Freedom 2022 Human Rights and Freedoms” (Canadian corporation number 1372685-1).

(“the property”)

19. I believe that GiveSendGo, the corporate entity Freedom 2022 Human Rights and Freedoms, and Chris Garrah are in possession of the property. My grounds for believing these persons/entities are in possession of the property are set out below under the heading The GiveSendGo Fundraisers.

F. THE PROPERTY IS OFFENCE-RELATED PROPERTY

20. The grounds for my belief that the property is offence-related property are set out in the paragraphs below.

SOURCES OF INFORMATION

21. In order to provide an objective summary of the nature and scope of the Freedom Convoy 2022 protest, the impact upon the City of Ottawa and its residents and businesses, and the mischief that has been committed and will reasonably continue to be committed, I have relied largely on information sourced from Internet sites and social media applications available to the general public, such as online news articles, Facebook², Twitter³, and other websites, as specifically referenced throughout my affidavit.

THE PROTEST

THE FREEDOM CONVOY 2022 PROTEST MOVEMENT

22. In order to provide background relating to the Freedom Convoy 2022 protest movement, I have chosen to provide a summary of various Freedom Convoy 2022 Facebook page posts. I believe this will provide insight as to how the movement was communicated and described by its organizers leading up to the convoy's arrival to Ottawa on January 28th, 2022:

² "Facebook is defined as an online social networking website where people can create profiles, share information such as photos and quotes about themselves, and respond or link to the information posted by others." (Source: <https://www.yourdictionary.com/facebook>)

³ "Twitter is known as a micro-blogging site. Blogging has been around for some time. Usually blogging consists of people setting up basic websites where they write about whatever they want, whether it be politics, sport, cooking, fashion etc. Posting a message is known as a tweet. People make connections by following other people's twitter feeds. Once you click follow, anything that person or organisation says will appear on your timeline." (Source: <https://www.webwise.ie/parents/explained-what-is-twitter-2/>)

- a. **Facebook post⁴ – January 22, 2022 – 11:00 a.m.:** This post provided supporters with details of how the funds raised through GoFundMe would support the cost to get trucks to Ottawa for the protest.
- b. **Facebook post – January 22, 2022 – 11:33 a.m.:** This post gave thanks to those offering donations of food, showers, beds and support. “Chris” and “Janet” were identified as coordinators in the War Room for Ottawa and associated with “Adopt A Trucker.”
- c. **Facebook post – January 24, 2022 – 8:38 p.m.:** This post communicated the following “[f]acts that the media is not sharing”:
 - o That the convoy is not anti-vaccination (adding that many truckers are vaccinated), but rather, it is anti-government mandates, anti-lockdowns, and anti-forced vaccinations;
 - o That a Canadian should be free to choose and not face restrictions based on their choice;
 - o That truckers will NOT [sic] block emergency vehicles, that they will assist any person in need in the convoy or protest, and that safety plans were in place; and
 - o That funds raised (at the time over \$4,000,000) would be distributed via a strict procedure involving registration, receipts, oversight (from a lawyer and an accountant), and that residual funds would be donated to a Canadian veteran’s association.
 - o *This could be the single largest protest in Canadian history. People who oppose government mandates are not the tiny group that the media has tried to make us believe. We are significant in numbers, growing by the day and we will not back down.*
- d. **Facebook post – January 27, 2002 – 3:42 p.m.:** This post declared, “*Our voices will finally be heard... not through Politicians, or Political Parties, or Mainstream Media for the two long years of, “we are all in this together” we have been ignored and silenced.*” This post encouraged a peaceful protest.
- e. **Facebook post – January 28, 2022 – 7:30 a.m.:** This post communicated that the Ottawa team was working hard at accommodating the “*record setting number of visitors to our nation’s capital*” and pleaded for donations to the GiveSendGo site <https://givesendgo.com/Warroomcanada.net>.
- f. **Facebook post – January 29, 2022 – 8:19 a.m.:** This post reminded protesters of the purpose of the protest and to abide by directives focused on a peaceful protest.
 - o DO NOT [sic] enter any government building or government property under any circumstances;
 - o Treat all police officers with respect;
 - o Keep calm;
 - o Do not make any type of threat; and
 - o *If we keep calm and show love and support for one another, many things will happen. We will eventually cause the government to reverse its policy on Covid passports and vaccine mandates as the UK has recently done. We will meet new friends, develop relationships, and there will likely be people who meet during this peaceful protest and fall in love and*

⁴ <https://www.facebook.com/pages/category/Nonprofit-organization/Freedom-Convoy-2022-100286905896085/> All references to Facebook posts can be sourced to this hyperlink.

build a life together. Let's not sacrifice such a bright future for all of us by loosing [sic] our temper.

23. On January 30, 2022 Freedom Convoy 2022 organizers held a press conference. I have reviewed the associated video which involved organizers Tamara Lich, Chris Barber, and B.J. Dichter (there may have been more organizers but these three were visible on camera). During the press conference, the organizers advised the following:⁵

- a. What they want is a logistics nightmare for the government;
- b. They are in this for the long haul, and they don't have a time limit;
- c. Long-haul trucks are designed to be on the road indefinitely as long as you keep fueling them, they can sit there for weeks and months;
- d. They have raised over \$8 million dollars;
- e. The GoFundMe donations were primarily intended to reimburse truckers for the costs of their journey to Ottawa, including fuel, food, lodging, incidental costs, and that the money is not for them (i.e. it is for the truckers);
- f. They never anticipated they would have this amount of engagement and support which gives them flexibility to take this movement and extend it. B.J. Dichter referred to the funds raised as 'endless resources';
- g. The purpose of the protest is related to Covid mandates, and they are not anti-vaccine;
- h. The Adopt-a-Trucker campaign is working in partnership with Freedom Convoy 2022; and
- i. General conversations took place regarding the diversity of supporters, the failure of governance, the frustration of citizens, the unreliability of legacy media, and their wish for people to engage in affecting change.

24. On February 9th, 2022 Freedom Convoy 2022 organizers Tamara Lich, B.J. Dichter, Kevin Wilson (lawyer for the Freedom Convoy 2022 organization), and "Nick" (who spoke in relation to Bitcoin) gave an interview to select media outlets and the video was posted to Facebook.⁶ I have watched the video which was one hour and fourteen minutes long. I have not summarized the entire interview but have provided a brief summary below of statements made relevant to the nature of this application:

⁵

https://twitter.com/i/broadcasts/1vAxRkzoeAXKI?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1487857084578287621%7Ctwgr%5E%7Ctwcon%5Esl_&ref_url=https%3A%2F%2Fwww.dailywire.com%2Fnews%2Flittle-snowflake-freedom-convoy-organizer-bashes-trudeau-for-disappearing-during-protest

⁶ <https://m.facebook.com/salman.sima/videos/1045886172632011/> [m.facebook.com]

- a. GiveSendGo reached out to them. They spoke directly with GiveSendGo's CEO "Jacob" who said he would not back down and that he would support them. On the first day on the GiveSendGo site, even though the site was inundated with denial of service attacks, they raised \$1.5 million.
- b. This morning (February 9th, 2022), they had raised \$7.5 million.
- c. Following GoFundMe's freezing of donations, some donors expressed that they would double their donations.
- d. B.J. Dichter put a tweet out to the Bitcoin community as an alternative, and was shocked how quickly prominent people in the Bitcoin community reached out to him.
- e. A Tallycoin site was set up (I understand this to be an online crowdsourcing fundraising site transacting in Bitcoin).⁷
- f. As of this morning (February 9th, 2022), Tallycoin had raised \$812 thousand.
- g. Donations are intended, in part, to provide a legal war chest (defensive and offensive).
- h. Kevin Wilson referenced police efforts to stop the GoFundMe fund, as well as the ongoing steps they (the police) are taking to freeze accounts which he anticipated would drive more and more people to Bitcoin.
- i. Nick stated the goal of fundraising with Bitcoin is to provide a platform to receive donations without obstruction, citing the decentralization and benefits of Bitcoin, and noted, that if done properly, Bitcoin is unconfiscatable. Furthermore, that Bitcoin could be used for food, water, diesel and sanitation services.
- j. The ground team is helping truckers set up Bitcoin wallets so that they can get started.
- k. The police cannot stop the funding and Bitcoin can be a failsafe if there is a problem with GiveSendGo fund.

THE MISCHIEF COMMITTED AND MY REASONABLE BELIEF THAT THE MISCHIEF WILL CONTINUE

25. The Freedom Convoy 2022 arrived in Ottawa on January 28th, 2022. The ongoing protest has impacted the City of Ottawa in many ways. In the paragraphs below, I describe how the ongoing protest has obstructed, interrupted, and interfered with the public's lawful use, enjoyment or operation of property.

26. On February 6th, 2022, the City of Ottawa responded to the ongoing impact of the protest by declaring a state of emergency. According to an article by Globalnews.ca,⁸ Mayor Jim Watson's statement read, in part: "Declaring a state of emergency reflects the serious danger and threat to

⁷ <https://twitter.com/HonkHonkHodl> <https://tallyco.in/s/lzxccm/>

⁸ <https://globalnews.ca/news/8599205/ottawa-state-of-emergency-trucker-convoy/>

the safety and security of residents posed by the ongoing demonstrations,” and “It highlights the need for support from other jurisdictions and levels of government.”

27. This same article also reported that Marco Mendicino (Canada’s Public Safety Minister): “Where you see people who are bringing in propane jerry cans, when you hear about people who have been threatened, harassed and assaulted, and where there isn’t law enforcement, then they don’t feel safe.”

28. The impact on road access in the downtown core of Ottawa has been significant as evidenced in a February 6th, 2022 Ottawa Sun article titled TRUCKER PROTEST: Mayor Watson declares state of emergency; police make arrests, seize vehicles and fuel; Confederation park cleared.⁹

7:22 p.m.

The city issued a news release to inform residents that traffic and service impacts related to the demonstrations would continue Monday, saying all non-essential travel, especially in the downtown core, should be avoided.

The list of services impacted included:

- *St. Luke’s Child Care Centre and Centre éducatif Pinocchio will be closed.*
- *The Ottawa Public Library’s Main and Rideau branches will remain closed.*
- *Ottawa City Hall and its amenities will remain closed.*
- *Ottawa Public Health’s (OPH) Lowertown Vaccine Hub, located at the Jules Morin Fieldhouse on 400 Clarence Street East, will remain closed.*
- *The vaccination clinic at the University of Ottawa Minto Sports Complex will remain closed until Wednesday.*
- *All bus routes with service downtown are expected to remain on detour. Residents who need to travel in and out of the downtown core should use O-Train Line 1.*

5:14 p.m.

Since Jan. 28, By-law and Regulatory Services had issued 787 parking tickets for various violations in and around the demonstration area, including 568 over the weekend, director Roger Chapman said in an emailed reply to this newspaper Sunday.

“The goal of parking enforcement within the perimeter of the demonstration is to ensure that emergency lanes are clear, and the flow of traffic is maintained. All service requests directly related to the demonstration are being redirected to OPS,” the email read. “We understand that this is a frustrating and difficult time for residents who live and work in the downtown core.

⁹ <https://ottawasun.com/news/local-news/truck-convoy-protectors-given-monday-deadline-to-leave-or-risk-inclusion-in-9-8-million-class-action-lawsuit/wcm/75110e30-89f9-4557-a9f1-9400f75a92e4#Echobox=1644176869>

5 p.m.

At the heart of the protest, on Wellington Street, a kilometre long line of trucks, RVs and pickups continued to stretch from Elgin Street to Bay Street Sunday with no indication that the protesters intended to leave.

29. The traffic impact in Ottawa is further evidenced on the City of Ottawa Demonstration in Ottawa website page.¹⁰ This website references Mayor Jim Watson declaring a state of emergency on February 6th, 2022 due to the ongoing demonstration; that the City advises residents that traffic and service impacts will continue on Wednesday, February 9, 2022; and that residents are to avoid non-essential travel in or around the downtown core.

30. In terms of traffic impacts, this website has published the map below showing road closures and interruptions, it conveys that the demonstration is occupying several streets in the downtown area around Parliament Hill, and that major impacts include but are not limited to the following roadways:

- Wellington Street;
- Queen Street;
- Metcalfe Street;
- O'Connor Street;
- Lyon Street;
- Kent Street;
- Sir John A Macdonald Parkway;
- Queen Elizabeth Driveway; and
- Laurier Avenue and Elgin Street around Confederation Park.



¹⁰ <https://ottawa.ca/en/health-and-public-safety/emergency-preparedness/demonstration-ottawa>

31. The personal impact on the citizens of Ottawa has been significant, especially on those living, working, and operating businesses in the vicinity of the Freedom Convoy 2022 protest. Examples of resident impact were reported in a February 6th, 2022 Ottawa Sun article titled Second weekend of truck convoy protests sorely tests Centretown residents, businesses:¹¹

“Overbrook resident Jill Piebiak says she has become increasingly alarmed by what now looks like a permanent truck convoy encampment there. She is worried about safety, especially with numerous containers of fuel. “You can just tell they aren’t leaving,” she said. “They have no intention of leaving.” Nearby retail parking lots, she added, were filled with vehicles of protesters over the weekend, and people without masks were in area stores. “Overbrook is a community that is mostly low-cost housing ... With all of the volatile action downtown, I am worried about that spilling into our neighbourhood.”

—
“And amidst all the noise and flag-waving, one Centretown resident, 21-year-old Zexi Li, threw down a gauntlet as she launched a \$9.8-million class-action lawsuit against the protest’s organizers and other, yet-to-be-named participants, for the pain and suffering caused by the almost incessant noise.”

—
The article also highlighted four residents working on behalf of the class action suit who delivered leaflets to the truckers in the red zone on February 6, 2022 urging them to leave by Monday at 10:00 a.m. and not return.

32. The personal impact on Ottawa residents was spoken about by Ottawa Mayor Jim Watson on February 6th, 2022, according to the Ottawa Citizen article titled Province says Ottawa has tools needed to end convoy protest; Watson warns city authorities 'outnumbered' by protester:¹² *“[i]t should have ended days ago, there’s no question about that. The nerves of the residents, particularly in the downtown core, are frayed beyond belief. They are suffering, and the protesters do not seem to have any understanding of how insensitive they are, blaring horns and sirens and fireworks, and turning it into a party. ... Bringing in bouncy castles and saunas and hot tubs is the height of irresponsibility.”*

33. As referenced above, the effects of the ongoing protest on some citizens of Ottawa has manifested itself in a \$9.8 million class-action lawsuit launched on February 4th, 2022 by Ottawa lawyer Paul Champ. According to a February 5th, 2022 Ottawa Citizen article titled Truck convoy:

¹¹ <https://ottawasun.com/news/local-news/centretown-residents-businesses-bristle-at-second-weekend-of-truck-convoy-protests/wcm/17a38485-6e46-4836-b7de-dd2cb58d9645#Echobox=1644190928>

¹² <https://ottawacitizen.com/news/local-news/province-says-ottawa-has-tools-needed-to-end-convoy-protest-watson-warns-city-authorities-outnumbered-by-protesters>

\$9.8M class-action lawsuit filed against "Freedom Convoy"; GoFundMe ends fundraising campaign; Protesters spotted in the suburbs; Kitchen erected in Confederation Park:¹³

"A \$9.8 million class-action lawsuit was launched Friday against organizers of the truckers' protest, claiming \$4.8 million in damages for emotional, mental and other distress, and \$5 million in punitive damages, largely due to the protestors' tactic of continually blaring their truck horns. Ottawa lawyer Paul Champ filed the claim on behalf of plaintiff Zexi Li, a 21-year-old public servant and uOttawa graduate who lives within five blocks of Parliament Hill. The claim lists convoy organizers Chris Barber, Benjamin Dichter, Tamara Lich and Patrick King as defendants, and leaves room for as many as 60 others who may be identified later. The claim is seeking class certification, with residents from Bay Street to Elgin Street and Lisgar Street to Wellington Street considered potential members. Documents filed by Champ contend that the defendants "deliberately planned the horn tactic to cause distress and discomfort" and "are aware or ought to be aware that the prolonged use of the extremely loud air horns and train horns can cause permanent hearing damage and psychological harm."

34. On February 7th, 2022 the judge hearing the class action lawsuit argument for an injunction to prevent the honking of truck horns throughout the protest ordered a temporary injunction, finding that the continual blaring of horns was having an effect on residents such that their right for "quiet, if we can use that term," trumped the honking truckers' right to protest.¹⁴

35. On February 7th, 2022 Ottawa Police Chief Peter Sloyly addressed the media and he highlighted a number of issues in relation to the Freedom Convoy 2022 demonstration, namely:¹⁵

- a. Since February 4th, 2022 there have been twenty arrests and criminal charges;
- b. Over 500 tickets were issued in relation to: unlawful conduct, By-laws, and Provincial Offences;
- c. Vehicles and trucks have been towed;
- d. There has been a significant reduction in the amount of protesters (and associated vehicles), and the large protest that was planned for the previous weekend was significantly smaller than the weekend before it;
- e. The previous weekend had over 3000 trucks (not counting all of the other vehicles), and approximately 10,000 to 15,000 protesters that operated over a twenty-four-hour cycle over Friday to Sunday;
- f. This past weekend there were approximately 1000 trucks, approximately 5000 protesters, and while there was some activity on Saturday, there was no activity on Friday or Sunday;

¹³ <https://ottawacitizen.com/news/local-news/truck-convoy-police-to-launch-surge-and-contain-strategy-this-weekend-city-councillors-plan-centretown-patrol>

¹⁴ [https://nationapost/news/canada/Judge has 'heard enough,' grants interim injunction against truckers honking in Ottawa | National Post](https://nationapost/news/canada/Judge%20has%20heard%20enough,%20grants%20interim%20injunction%20against%20truckers%20honking%20in%20Ottawa)

¹⁵ <https://ottawa.ctvnews.ca/ottawa-police-chief-says-he-won-t-resign-as-trucker-protest-drag-on-1.5770960>

- g. Funding was targeted, resulting in the \$10 million GoFundMe campaign being unavailable to the demonstrators, there are other funding avenues that the OPS is going after via various agencies and all level of governments;
 - h. The OPS is going after the fuel via arrest, seizure, and interdictions;
 - i. A Public Order operation was instituted after negotiations failed resulting in seven people being arrested and criminally charged, thousands of litres of propane and a fuel tanker were seized, and a staging area was dismantled;
 - j. Through negotiations, an encampment was disassembled in Confederation Park, with no arrests, no use of force, no injuries, no deaths, and no riots;
 - k. Every time an area is disassembled, there are attempts to establish a new area in four or five other locations with the intention of sustaining the demonstration, thereby requiring a police response;
 - l. Every available OPS officer has been working for the last four days, all days off have been cancelled, some OPS members have been working for fourteen days straight in the outdoors, and the OPS is stretched to the limit;
 - m. The OPP, the RCMP, and seven different municipal police services have provided officers, but more are needed; and
 - n. OPS and community members are at the breaking point, it is crushing for residents and businesses, and it has to stop.
36. On February 9th, 2022 the Ottawa Police Service released a press release¹⁶ titled Message to Demonstrators from the Ottawa Police Service. The press release reads as follows:

Posted On Wednesday February 09, 2022

FOR IMMEDIATE RELEASE: Wednesday, February 9, 2022 2:57pm

(Ottawa)—It is a criminal offence to obstruct, interrupt or interfere with the lawful use, enjoyment, or operation of property.

The offence is known as mischief to property.

The unlawful act of blocking streets in the downtown core is resulting in people being denied the lawful use, enjoyment and operation of their property.

We are providing you notice that anyone blocking streets or assisting others in the blocking of streets may be committing a criminal offence.

You must immediately cease further unlawful activity or you may face charges.

¹⁶ <https://www.ottawapolice.ca/Modules/News/index.aspx?lang=en=1bc1b5ab-51e3-4860-8937-b181d4475989>

You could be arrested without a warrant for this offence if you are a party to the offence or assisting others in the direct or indirect commission in this offence.

*Whether you are released on bail depends on factors contained in Part XVI of the **Criminal Code**.*

Offence-related property, including vehicles, may be seized as part of the offence. The vehicles may be detained and, following a conviction, possibly forfeited.

Charges or convictions related to the unlawful activity associated with the demonstration may lead to denial in crossing the USA border.

37. The Freedom Convoy 2022 organizers have been steadfast in their position that they intend for protesting truckers to remain in Ottawa until their demand for all Covid restrictions to be lifted has been met. For example, according to a CBC news article dated February 4th, 2022, “Lich spoke to the media on Thursday and said the convoy will not leave Ottawa until its demand for an end to all pandemic restrictions is met.”¹⁷ At the organizers’ press conference on January 30th, 2022, referenced above, they confirmed that the millions of dollars in donations raised gave them ‘endless resources’ to continue the protest for months, or longer.

38. Given the descriptions provided above in relation to the disruptions and obstructions caused by the protesters to public roadways and to the lawful use, enjoyment or operation of property, I believe that protesters have committed the offence of mischief, continue to commit the offence of mischief and, because they have vowed to remain in Ottawa until their demands are met, I further believe that they intend to continue to commit the offence of mischief.

THE GOFUNDME FUNDRAISER

39. In support of the Freedom Convoy 2022, organizers set up a GoFundMe fundraiser on www.gofundme.com. According to the GoFundMe Terms of Service, the GoFundMe website service is a platform allowing individuals and entities to post a fundraiser to the site to accept monetary donations from donors on behalf of the beneficiary of the fundraiser.¹⁸

¹⁷ <https://www.cbc.ca/news/politics/questions-answers-gofundme-convoy-1.6338932>

¹⁸ <https://www.gofundme.com/c/terms>

40. By February 4th, 2022 over \$10 million¹⁹ had been raised through the GoFundMe platform.²⁰ GoFundMe had concerns about the Freedom Convoy 2022 fundraiser and on February 4th, 2022, GoFundMe released a statement advising that it would automatically refund all donors:²¹

We will automatically refund all contributions directly.

GoFundMe supports peaceful protests and we believe that was the intention of the Freedom Convoy 2022 fundraiser when it was first created.

We now have evidence from law enforcement that the previously peaceful demonstration has become an occupation, with police reports of violence and other unlawful activity.

THE GIVESENDGO FUNDRAISERS

41. GiveSendGo, like GoFundMe is an online fundraising platform where fundraisers set up a campaign page describing their fundraising initiative and donors can access that page and donate funds using the payment processing services offered by GiveSendGo (for the donor this happens by simply clicking on the “Give Now” icon). The GiveSendGo Terms and Conditions published on its website describe its service as a *funding platform for Givers (an individual or entity that contributes to a fund or posts a comment to a fund) and Campaign Owners (those using the service to raise funds)*.²²

42. The Terms and Conditions on the GiveSendGo site sets out that GiveSendGo LLC is the registered agent for the GiveSendGo website and services.²³ GiveSendGo LLC is a private company incorporated in Delaware in the United States. Its corporate address is 8 The Grn Ste 8, Dover, Delaware 19901-361 (the same address published in the Terms and Conditions on the GiveSendGo site). The corporate profile lists GiveSendGo LLC’s business as “Business Services” and “Fund raising organizations”.²⁴

43. There are two GiveSendGo fundraising campaigns that are the subject of this application: Freedom Convoy 2022 and Adopt-a-Trucker. They are described below.

¹⁹ As the [gofundme.com](https://www.gofundme.com) fundraising page has been removed, I cannot confirm whether this amount is USD or CDN.

²⁰ <https://www.cbc.ca/news/politics/questions-answers-gofundme-convoy-1.6338932>

²¹ <https://medium.com/gofundme-stories/update-gofundme-statement-on-the-freedom-convoy-2022-fundraiser-4ca7e9714e82>

²² <https://www.givesendgo.com/terms-of-use>

²³ <https://www.givesendgo.com/terms-of-use>

²⁴ Business Report provided to me by Special Agent Brendan Cullen (Homeland Security Investigations) on February 7, 2022.

FREEDOM CONVOY 2022

44. On February 4th, 2022, following GoFundMe's removal of the campaign from its site, Tamara Lich released a video statement on Facebook announcing that donations in support of Freedom Convoy 2022 could be made on the online fundraising platform GiveSendGo.²⁵ Her video statement is transcribed²⁶ below:

It's Tamara Lich here from beautiful downtown Ottawa on this lovely Friday afternoon.

We are here today to give you an update on the situation here with GoFundMe as well as how you can continue to help the truckers that we have on the ground here. So, as you know, GoFundMe has only released a million of the over ten million dollars that you have donated thus far and they've frozen the rest of it for now.

I wanted to get you some accurate information on how you can support the truckers that are on the ground here at the moment. Ah, we've decided to team up with an organization called GiveSendGo and which is going to enable us to get donations into the hands of the truckers much much quicker while everybody gets the rest of the stuff sorted out.

*So it's gonna be GiveSendGo it is Freedom Convoy 2022, that you can check out their site they'll be links posted here shortly once we have all this information up. And yeah, so please if you can donate and help us keep these truckers going. **You know we plan to be here for the long-haul as long as it takes to ensure that your rights, and freedoms, are restored.** And obviously, from the bottom of our hearts we thank-you very much and we will continue to bring you updates as we have all of that information. So, thank-you very much.*

45. This video statement is also found on the GiveSendGo Freedom Convoy 2022 fundraising campaign page at www.givesendgo.FreedomConvoy2022.²⁷

46. The Freedom Convoy 2022 campaign page states the following:

Campaign Created by: Freedom 2022 Human Rights

The funds from this campaign will be received by Incorporated Freedom 2022 Human Rights and Freedom Association.

To our Fellow Canadians, the time for political over reach is over. Our current government is implementing rules and mandates that are destroying the foundation of our businesses, industries and livelihoods. Canadians have been integral to the fabric of humanity in many ways that have shaped the planet.

²⁵ <https://www.facebook.com/pages/category/Nonprofit-organization/Freedom-Convoy-2022-100286905896085/>. When the Facebook video is clicked, a Rumble.com video titled "Freedom Convoy 2022 - Tamara Lich GiveSendGo" appears (the hyperlink is <https://rumble.com/vu2xcl-freedom-convoy-2022-tamara-lich-givesendgo.html>)

²⁶ On February 6, 2022, I transcribed this video while personally watching it.

²⁷ <https://www.givesendgo.com/FreedomConvoy2022>

We are a peaceful country that has helped protect nations across the globe from tyrannical governments who oppressed their people, and now it seems it is happening here. We are taking our fight to the doorsteps of our Federal Government and demanding that they cease all mandates against its people. Small businesses are being destroyed, homes are being destroyed, and people are being mistreated and denied fundamental necessities to survive. It's our duty as Canadians to put an end to this mandates. It is imperative that this happens because if we don't our country will no longer be the country we have come to love. We are doing this for our future Generations and to regain our lives back.

We are asking for Donations to help with the costs of fuel first, and hopefully food and lodgings to help ease the pressures of this arduous task.

It's a small price to pay for our freedoms. We thank you all for your Donations and know that you are helping reshape this once beautiful country back to the way it was.

In order for your generous donations to flow smoothly, the good people at Give Send Go will be sending donations directly to our bulk fuel supplier and are working out the details now which means your hard earned money is going to straight to who it was meant for and need not flow through anyone else. Any left over donations will be donated to a credible Veterans organization which will be chosen by the donors.

—

Money raised will be dispersed to our Truckers to aid them with the cost of the journey

Funds will be spent to help cover the cost of fuel for our Truckers first and foremost, will be used to assist with food if needed and contribute to shelter if needed

47. I believe that the campaign creator and recipient of the funds named on the campaign page as “Freedom 2022 Human Rights” and “Incorporated Freedom 2022 Human Rights and Freedom Association” respectively are in fact one and the same entity which is properly named “Freedom 2022 Human Rights and Freedoms.” Freedom 2022 Human Rights and Freedoms is a Canadian company incorporated under the *Canada Not-for-profit Corporations Act*. The incorporation documents reveal the following:²⁸

- a. Freedom 2022 Human Rights and Freedoms was incorporated on January 30, 2022;
- b. The corporation number is 1372685-1;
- c. The purpose of the corporation is:

Advocacy against government, agents of government and any other organization person or individuals' actions, laws, policies and practices that violate human rights and freedoms paying special attention to creation of class systems through mandates, social credit systems (rewards and punishments for government compliance), passport systems and more.

- d. The Directors of the corporation are Chad Eros and Chris Garrah;

²⁸ Freedom 2022 Human Rights and Freedoms - Certificate of Incorporation

- e. The registered corporate office address is 1493 Leeds and Grenville 2, Mallorytown ON KOE 1R0; and
- f. Chris Garrah's address is 1493 County Road 2, Mallorytown ON KOE 1R0.²⁹

48. The fundraising goal published on the campaign page is \$16 million USD. At the time of writing this affidavit, over \$8.1 million USD has been raised.

ADOPT-A-TRUCKER

49. A second campaign on GiveSendGo is fundraising in partnership with Freedom Convoy 2022. This campaign is called "Adopt-a-Trucker" and its fundraising page is found at <https://givesendgo.com/Warroomcanadanet>. The campaign page states the following:

Campaign created by: Chris Garrah

The funds from this campaign will be received by Chris Garrah.

We at Warroom Canada have started up the Adopt-a-Trucker.ca campaign in partnership with 2022 Freedom Convoy that arrived in Ottawa, the weekend of January 28th.

Our heroic arrivals will need; housing, water, food, accommodations and shuttle services. Your donations are greatly appreciated and will be put to good use. This is a Canada wide rally determined to stop all mandates and return CANADIANS their rights and freedoms again.

50. The Campaign creator and recipient as noted on the Adopt-a-Trucker campaign page is Chris Garrah. Chris Garrah is also, as noted in the previous section of my affidavit, one of the Directors of the federally incorporated company Freedom 2022 Human Rights and Freedom.

51. I believe that the Chris Garrah related to the Adopt-a-Trucker campaign is the same Chris Garrah who is named as a Director of the Freedom 2022 Human Rights and Freedoms corporation. I believe this because Chris Garrah's address as reflected on the Ministry of Transportation Ontario's records is 1493 County Road 2, Mallorytown ON KOE 1R0 which is the same address provided for him on the corporate documents for Freedom 2022 Human Rights and Freedoms.³⁰

52. At the time of writing this affidavit, over \$666 thousand USD has been raised.

²⁹ I believe that this address and the registered corporate office address are one and the same. While they are described differently, a query on Google.ca demonstrate that Leeds and Grenville 2 and County Road 2 are the same location.

³⁰ Ministry of Transportation query dated February 2nd, 2022.

GIVSENDGO PAYMENT PROCESSING

53. It is unclear exactly how the funds donated through GiveSendGo are processed and where they are held pending distribution. A review of GiveSendGo's Terms and Conditions, as published on its site, states the following regarding payment processing but does not reveal which payment processing entities it uses:³¹

GiveSendGo.com processes payment transactions through 3rd-party payment solutions. GiveSendGo is not a chartered banking entity. All funds that are not part of a fee paid to GiveSendGo.com are paid directly to 3rd-party payment solutions.

—
Payment processing services for Campaign Owners on GiveSendGo.com are provided by a variety of payment processing companies and are subject to their own Connected Account Agreement, which includes their Terms of Service). By agreeing to this agreement / these terms or continuing to operate as a Campaign Owner on GiveSendGo, you agree to be bound by their terms of service, as the same may be modified by them from time to time. As a condition of GiveSendGo enabling payment processing services through our third party payment processors, you agree to provide GiveSendGo accurate and complete information about you and your business, and you authorize GiveSendGo to share it and transaction information related to your use of the payment processing services.

54. The following questions and answers are found on the GiveSendGo's FAQ pages and communicate that givers donate using credit cards and that donated funds may move almost immediately to bank accounts controlled by Campaign Owners:³²

***Do I need to sign up for anything to make a donation?** No, just click donate now. Fill out your credit card information and hit submit and the money is on your way to the campaign owner.*

***When will I get the money I've raised?** You have complete control over your funds. Simply login and set up your transfers and bank accounts.*

***How and when do I receive my funds?** All funds being processed by our processor can be accessed by logging into your account and setting up transfers.*

***Are donations refundable?** Due to the fact that all contributions are immediately disbursed to Campaign owner's bank accounts refunds are not possible.*

55. Given the above information, I believe that while donated funds may move quickly from the GiveSendGo third party payment processor to the Campaign Owner or beneficiary, it is not certain that in all cases those funds move immediately. It appears that it is up to the Campaign Owner to set up transfers to its bank account(s) and control the timing of the distribution of donated

³¹ <https://www.givesendgo.com/terms-of-use>

³² https://givesendgo.com/site-faq#payment_details

funds. In addition, the following statement on the Freedom Convoy 2022 site suggests that there may be shared control of the donated funds between the Campaign Owner and GiveSendGo:

In order for your generous donations to flow smoothly, the good people at Give Send Go will be sending donations directly to our bulk fuel supplier and are working out the details now which means your hard earned money is going to straight to who it was meant for and need not flow through anyone else.

56. Identification of the Campaign Owners' receiving financial accounts is the subject of ongoing investigation. What is known at this time is that the recipient of funds raised through GiveSendGo for the Freedom Convoy 2022 campaign is the Freedom 2022 Human Rights and Freedom corporation, and the recipient of funds raised through GiveSendGo for the Adopt-a-Trucker campaign is Chris Garrah.

G. CONCLUSION

57. I understand this application is made under subsection 490.8(3) for an order prohibiting any person from disposing of, or otherwise dealing with any interest in the offence-related property described above.

58. I believe that I have demonstrated reasonable grounds to believe that the actions of some protesters to date have resulted in acts of mischief given the obstruction, interruption, and interference with the public's lawful use, enjoyment or operation of property, including public roadways, businesses, and public spaces.

59. I believe that I have also demonstrated that the Freedom Convoy 2022 organizers have vowed to remain in Ottawa until their demands are met, and therefore that it is reasonable to believe that they intend to continue to commit acts of mischief as the very nature of the protest obstructs, interrupts and interferes with the public's lawful use, enjoyment or operation of property, including public roadways, businesses, and public spaces.

60. Finally, I believe that I have demonstrated that the funds donated to the Freedom Convoy 2022 and Adopt-a-Trucker campaigns on GiveSendGo are critical to its sustained occupancy in Ottawa, and therefore that those funds constitute property intended to be used for committing indictable offences.

H. EX PARTE APPLICATION

61. I understand that this application is being made *ex parte* under subsection 490.8(2) of the *Criminal Code*. I have made full, frank and fair disclosure of all the material facts that I have knowledge of. I believe that the information detailed within this affidavit is true to the best of my knowledge. I have focused on information and evidence relevant to the grounds for this application, and not to other issues relating to the protest, in an attempt to present an affidavit that is clear, concise and focused on the authorization sought.

62. For the reasons set out in the paragraphs below, I believe that if notice of this application were provided to the respondents, that they would attempt to dispose of the property sought to be restrained.

63. GiveSendGo does not appear to be an impartial provider of fundraising services to the Freedom Convoy 2022 protest. As the tweets and press release excerpted below demonstrate, GiveSendGo has been expressly critical of GoFundMe's decision to terminate its relationship with the campaign and actively sought out the Freedom Convoy 2022 campaign to join its online fundraising platform:

- a. On January 26th, 2022, @GiveSendGo tweeted and posted on the GiveSendGo Facebook page:³³

Check out our recent press release regarding our statement on GoFundMe withholding funds from the Canadian Truckers Convoy and the campaign's donors. Let's get the word out!!

- b. In the January 26th, 2022 GiveSendGo press release addressing GoFundMe's decision to freeze funds, GiveSendGo actively sought out the Freedom Convoy 2022 fundraising campaign:³⁴

"We would love to see this campaign come to GiveSendGo where they will not be censored or have their voices silenced," said co-founder of GiveSendGo, Heather Wilson. "Thousands of people are coming out of the woodwork in support of this group and they're not happy about what GoFundMe has done. We have an awesome community of givers, so I have no doubt this group would receive an overwhelming amount of financial, emotional, and spiritual support on GiveSendGo."

- c. On January 26th, 2022, @GiveSendGo tweeted:³⁵

³³ <https://www.facebook.com/Givesendgo/>

³⁴ <https://givesendgo.com/site/pressrelease> [givesendgo.com]

³⁵ GiveSendGo (@GiveSendGo) / Twitter

The biggest issue was using gfm³⁶ in the first place!! @GiveSendGo the freedom fundraising platform.

- d. On February 5th, 2022, @GiveSendGo tweeted:³⁷

We have been under heavy DDOS and bot attacks. In spite of all this we still have managed to raise funds 5X faster than the gfm did. GFM raised 10mil in 3 weeks. GSG campaign has already raised over 1.1mil in just over 12 hours.

- e. On February 6th, 2022, @GiveSendGo tweeted:³⁸

Even with all the glitches/attacks, \$4million+ has been donated in 48 hrs on GiveSendGo. This is nothing short of a MIRACLE even with all the issues God is growing this company. We're so excited to be on this adventure. (FYI it took over 2 weeks for the gfm to reach the \$10M).

- f. On February 7th, 2022, GiveSendGo released a statement assuring the Freedom Convoy 2022 campaign supporters that it does not condone violence and that the campaign organizers had assured GiveSendGo that “all funds raised will go to provide humanitarian aid and legal support for the peaceful truckers and their families as they stand for freedom.” Further, GiveSendGo again communicated its support for the campaign and directed readers to the related campaigns:³⁹

GiveSendGo will always stand for freedom for those on either side of our current ideological divide. Our hope is first in God and also in the notion that we can be united as free people across the globe, standing in the freedom that was bought for us first at the cross, but also maintained by the blood of courageous men and women who have sacrificed their lives so that we might live in that freedom.

—
GiveSendGo's “Adopt a Trucker” campaign has now raised over \$400,000 CAD. The “Freedom Convoy 2022” GiveSendGo campaign has raised over \$4.5 million. Additional campaigns created in support of Canadian truckers can be found at www.GiveSendGo.com.

64. As described above, upon termination of the GoFundMe campaign, Freedom Convoy 2022 organizers were quick to direct supporters to new campaigns on the GiveSendGo site, and in doing so have been able to quickly raise millions of dollars. In addition, Freedom Convoy 2022 organizers have repeatedly stated that they plan to occupy Ottawa until their demands are met, as long as that takes. At the organizers’ press conference on January 30th, 2022, referenced above, they confirmed that the millions of dollars in donations raised gave them ‘endless resources’ to continue the protest for months or longer. It is clear that the funds being raised through the GiveSendGo campaigns are critical to sustaining the protest.

³⁶ I believe that “gfm” represents GoFundMe.

³⁷ [GiveSendGo \(@GiveSendGo\) / Twitter](https://twitter.com/GiveSendGo)

³⁸ [GiveSendGo \(@GiveSendGo\) / Twitter](https://twitter.com/GiveSendGo)

³⁹ <https://givesendgo.com/site/pressrelease> [givesendgo.com]

65. Further, it is clear from the organizers' February 9th, 2022 interview published on Facebook, referenced above, that they are already transitioning from traditional currency fundraising to Bitcoin fundraising because Bitcoin is "unconfiscatable."

66. Given the success Freedom Convoy 2022 organizers have had in engaging donors and given that they have raised over \$8.7 million USD since February 4th, 2022 through the two GiveSendGo campaign pages, I believe that should anyone associated with the Freedom Convoy 2022 or Adopt-a-Trucker fundraising campaigns be notified of this application, there is a real risk donors and funds will be redirected away from the GiveSendGo campaign platforms to ensure that the funds are still accessible to be used in support of the continued occupation of protesting truckers in Ottawa.

67. Similarly, I believe that given GiveSendGo's support of the campaigns and its disdain for the position taken by GoFundMe, there is a real risk that should GiveSendGo be given notice of this application, it would work with Freedom Convoy 2022 organizers to ensure that funds remain accessible to be used in support of the continued occupation of protesting truckers in Ottawa.

I. NOTICE OF THE RESTRAINT ORDER

68. I believe that the following persons should receive notice of the restraint order, once issued:

- a. **GiveSendGo LLC** [registered agent for the GiveSendGo website and services]: Legal Department, 8 The Green, STE A, Dover, Delaware, U.S.A. 19901; support@givesendgo.com.
- b. **Freedom 2022 Human Rights and Freedoms** [Campaign Owner and Recipient of funds raised through GiveSendGo in relation to the Freedom Convoy 2022 campaign]: Chris Garrah, Director [REDACTED]
- c. **Chris Garrah** [Campaign Owner and Recipient of funds raised through GiveSendGo in relation to the Adopt-a-Trucker campaign]: [REDACTED]

69. GiveSendGo, in its Terms and Conditions states that it will not accept service by e-mail or fax of any 'subpoena'. The Terms and Conditions do however, provide an email contact for the

Legal Department: support@givesendgo.com. I propose that GiveSendGo be served by registered mail or courier to the address noted above, as well as by email to support@givesendgo.com.⁴⁰

70. I propose to serve Chris Garrah personally at the address noted above. However, as the protest situation is evolving by the moment, public safety concerns may determine whether he is served at that location. If there are public safety concerns in relation to attending his residence, it may be that a decision will be made to serve him away from the residence.

AFFIRMED BEFORE ME in the)
City of Ottawa, in the Province of)
Ontario this 10th day of)
February 2022.)

Dianno Brion,
a Commissioner, etc., City of
Ottawa, for Ottawa Police Service.
Expires April 27, 2023.

A Commissioner for the taking of Oaths
in and for the Province of Ontario

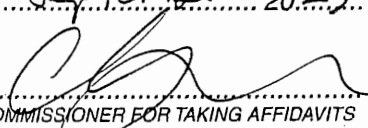
DB 2022/2



Christopher Rhone

⁴⁰ It is recognized that service of the proposed order on GiveSendGo LLC may not be legally effective given GiveSendGo LLC does not appear to have a Canadian presence. I am advised by Crown counsel that steps will be taken to engage federal central authorities to effect enforcement.

This is Exhibit I referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
day of September 2023.


A COMMISSIONER FOR TAKING AFFIDAVITS



Canada Unity | Operation BEARHUG Ottawa was a Great Success

44.7K members

Join group



James Bauder

December 13, 2021 · 🌐

Operation BEARHUG Ottawa was a Great Success.

On day 1 we went maskless shopping and maskless dining with no issues from police and did a convoy through the city center.

On day 2 we took on Dollaramma. They shut down their tills for not having the jab pass and called the Police which backfired - The manager was told by police to open up the tills and let us shop. Also did another convoy through the city center and got lots of smiles.

Day 3 we did a Media Blockade at CTV and the staff tried to leave the parking lot and were not happy, they called the police who arrived and told CTV staff that they have to sit and wait. (Power in numbers).

On day 4 we did a media blockade outside CBC and also had a great turnout, then we went over to Justine Trudeaus' and the Governor Generals' houses and held a block party in the middle of the street, shutting down the road for about 30 minutes where the police were called - again they did not interfere.

The same night, We decided to have some fun with Ottawa Police and we did another surprise Convoy visit at Justine's cottage, and this time we got very vocal with lots of protesting where we had Justine's security detail running through the woods, while Ottawa Police again, did not interfere.

On day 5 Friday we had lots of great speakers on Parliament Hill, and then we sent the MOU to the Senate and Governor-General via registered mail, and again the police were very accommodating. We wrapped it up with another surprise convoy over to Justine's and the GGs houses where again, we blocked the road during rush hour traffic and got very vocal.

Big Thanks to the Ottawa Police Service - (many of them admitted to having signed the MOU FYI).

What many of you do not know... We did all this with less than 100 people. We called for 10s of thousands of Canadians to show up so that we could completely shut down Ottawa (vehicle gridlock) and then apply pressure for the Senate to sign the MOU. SADLY Majority of you stayed home... So we had to wrap it up and go back to Calgary - We needed tens of thousands of vehicles and sadly so many of you had excuses that baffles those that did go.

Had thousands vs 100 shown up we would still be there and most likely the MOU would have gotten the much-needed pressure tactic we were seeking.

Will there be a BearHug 2.0 ??? That depends on all those who chose to stay at home... Freedom is NOT FREE and if folks are going to sit at home, watch Netflix when they should have come to Ottawa to defend their freedoms then sadly we may never be free. That's a Fact.

So if there is another BearHug Ottawa... Perhaps the next time those who sat at home can find their freedoms under your boots and come join us!!

For all those who participated in BearHug Ottawa. On behalf of Team Canada Unity, we say a HUGE THANK YOU from the bottom of our hearts. ❤️

We Love You All.
TILL WE MEET AGAIN.



Thank you for signing the
Memorandum of
Understanding!



   178

31 Comments 13 Shares

 Like

 Comment

 Share

[View 19 previous comments](#)



Patt Biro



Valerie LeRoy

So happy to hear that the police were not interfering with your protest, we need more of that across Canada.

And thank you for everything thing you have done.

39w



Kelley French

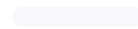
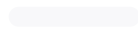
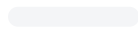
Thank you

Canada Unity. 🇨🇦

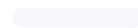
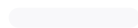
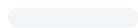
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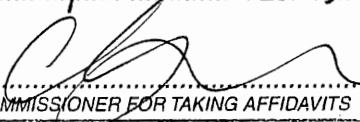
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This is Exhibit J referred to in the
affidavit of Trudy Moore
sworn before me, this 1st
day of September 2023.


A COMMISSIONER FOR TAKING AFFIDAVITS

'Freedom Convoy' organizers discussed playing 'race card' with Métis heritage

Erika Ibrahim, The Canadian Press

Jul 9, 2022 11:00 AM



. | screenshot via Twitter / Freedom Convoy 2022

[Listen to this article](#)

00:06:55

Organizers of the 'Freedom Convoy' discussed using their ties to Métis identity to play the "race card" as part of an overall strategy to control their public image and garner sympathy for their cause, text messages suggest.

evidence by the Crown in Lich's bail hearing this week, indicate how acutely aware the organizers were of the optics of the protest.

The convoy's connection to Pat King, who has spread racist conspiracy theories, as well as the appearance of Nazi and Confederate flags in the early days of the protest, prompted accusations that it was sympathetic to white nationalist causes.

While planning the convoy, Lich and Barber appeared aware that racial identity could be raised in criticisms of it. Lich has described herself as Métis, and on Jan. 20, about a week before demonstrators arrived in Ottawa, Barber texted Lich that his wife was Métis as well.

"It's going to work in our favour," replied Lich. "Playing the race card works both ways lol."

That same day, Lich congratulated Barber on his interview on a podcast, describing it as very "PC" — or politically correct — "but also direct."

Barber said to Lich on Jan. 22 that all of his years of "social media trolling" were going to pay off. "I'll spin and use it all against them," he said in reference to those critiquing the convoy.

The protest against COVID-19 restrictions and the Liberal government swarmed the capital's downtown with large trucks, blocking streets and blaring loud horns for more than three weeks. Protesters also blockaded multiple border crossings. It all prompted the federal government to invoke the Emergencies Act and the police to use force to clear the crowd.

For their role in the protest, Lich and Barber have been charged with mischief, obstructing police, counselling others to commit mischief and intimidation.

Barber remains out on bail, while a justice of the peace ruled Friday that Lich had breached a release condition and revoked her bail.

At Lich's bail hearing this week, Barber's lawyer was granted a publication ban on court documents showing his cellphone communications, except for those with Lich.

Diane Magas, counsel for Barber, said the Crown's submission may lack the full context or intent of the messages, and could be misleading or inaccurately interpreted.

The 4,000-page document filed with the court says it includes all messages — numbering in the thousands — found on Barber's phone. Dozens are directly between Barber and Lich, not including group chats.

Lich's lawyer, Lawrence Greenspon, declined to comment on the messages outside court on Friday.

for boosting the white nationalist “great replacement theory,” predicated on an anxiety that white people are being replaced.

King remains in an Ottawa jail on charges of mischief, intimidation, obstructing police, disobeying a court order, perjury and obstruction of justice.

His lawyer has not yet responded to requests for comment.

On Jan. 22, Lich told Barber they need to have “a very frank discussion” with King, raising concerns about past allegations against him.

Despite these concerns, Lich also said he was needed by the movement — in apparent contrast to later statements in which the convoy tried to distance itself from King.

“We need him and I don’t care about his past but it only takes one,” she said. “We have to control his rhetoric. Not even threatening to throw snowballs at the parliament (sic).”

“I know he’s had issues. I’ve got skeletons in the closet to (sic),” Barber replied.

But a few days later, on Jan. 26, Lich said if King “doesn’t stop now and right now he needs to go home.”

“Honestly I hate to do it. I believe a part of his heart is in this for the right reasons but he will bring down this whole thing.”

On Jan. 29, the day after the convoy arrived in the capital, Barber messaged Lich about an interview King had done.

“I’m concerned he is putting us in a bad light. Is he supposed to speak today?? I’m nervous what he’s gonna say,” he said.

“No. He is not speaking. Period. We have people that will look after him,” said Lich.

that had a “strategy to gridlock the city.”

“Can you head over there with me soon,” she asked Barber. “I don’t want to make those decisions on my own.”

During this period, some Conservative MPs cheered the arrival of the convoy, as the party opposed the Trudeau government’s vaccine mandates for federal workers and travellers.

On Jan. 31, Tory MP Marilyn Gladu posted a photo to social media of herself and caucus colleague Candice Bergen at a restaurant with two men Gladu described as “hard-working truckers in Ottawa.”

Erin O’Toole’s reluctance to stake out a clear position on the protest was among the reasons a majority of his caucus ousted him on Feb. 2 and replaced him with Bergen as interim leader.

A couple days later, Lich wrote, “Candace Bergen (sic) wants to meet soon. What (do) you think?”

Barber didn’t directly respond to the question. The next day, Lich expressed enthusiasm for appearing on an American media outlet.

“We must be on Fox at 6:30,” she wrote.

Christopher Martin-Chan, a spokesman for Bergen, said ultimately no meeting took place between convoy representatives and the interim leader.

Conservative MP Glen Motz had been speaking with Lich and was willing to act as liaison to have MPs listen to her concerns. He suggested meetings with Public Safety Minister Marco Mendicino and Transport Minister Omar Alghabra, said Martin-Chan.

Motz confirmed he spoke directly with Lich “in an effort to resolve the ongoing protest,” and tried to facilitate a meeting with the ministers.

“Unfortunately, after several conversations with both ministers, they declined any resolution meeting with the protest organizer,” he said, adding he believes if the Liberal government had taken that meeting, the protest would have been resolved differently.

Alghabra’s office said in a statement that it was not “not appropriate or responsible to Canadians to meet with individuals who blocked our borders, hurt our economy, and terrorized the residents of downtown Ottawa.”

A spokesman for Mendicino echoed those sentiments.

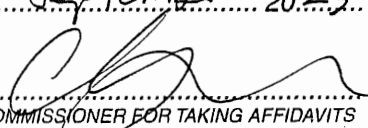
After the ministers declined to meet, Motz said he tried setting up a meeting between Lich and Bergen, which Lich’s legal team declined as “resolution would only be beneficial if it included the government.”

capital in a massive operation beginning Feb. 18.

This report by The Canadian Press was first published July 9, 2022.



2001 Thurston Drive Ottawa, ON, K1G 6C9
© 2006-2022 Rogers Sports & Media. All rights reserved.

This is Exhibit K referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
day of September 2023.

A COMMISSIONER FOR TAKING AFFIDAVITS

Freedom Convoy 2022

OFFICIAL DAILY EVENT AND SAFETY REPORT

END THE MANDATES is the message

Freedom Convoy 2022/Report 019/12 February 2022 Google Drive for all reports:
<https://drive.google.com/drive/folders/1PBERG6tDfBGKgsqy2SLVr9iYi4wW8z-7>

Follow Twitter @tomtsec for updates and info.



Black People Support Truckers

OTTAWA WEATHER

Saturday 12 Feb: Highs of plus 2 but temperatures falling in the afternoon. Light snow and rain.

Sunday 13 Feb: Highs of minus 15 with sun and lows of minus 24

INSPIRATIONAL THOUGHT FOR TODAY

Good governments serve. Bad governments control.

STATE OF EMERGENCY

Ontario Premier Doug Ford declared a state of emergency for the province. He has been snowmobiling at his cottage during the time he declared Ottawa to be under a siege. Evan Solomon of CTV claims that federal Transport Minister @OmarAlghabra asked Ontario Transport Minister @C_Mulroney to invoke emergency measures to deal with blockades but she refused to do it. Days later Prime Minister Trudeau and Premier Ford spoke and then Premier Doug Ford declared state of emergency. Freedom Convoy 2022 assess that, once again, Premier Ford is in the political orbit of Prime Minister Trudeau and acts more in Trudeau's interests than those of the people of Ontario. <https://toronto.ctvnews.ca/ontario-premier-doug-ford-was-in-muskoka-area-as-ottawa-dealt-with-escalating-convoy-protests-1.5777605> and <https://twitter.com/EvanLSolomon/status/1492172421176168448>

DOCTORS CONFERENCE

A Doctors conference was held at 1pm on 11 February 2022. Dr. Byram Bridle, Dr. Paul Alexander, and Dr. Roger Hodgkinson sent an invitation to senior Health Administrative representatives of the Federal Government, Dr. Theresa Tam and Dr. Howard Njoo and the Chair of the National Advisory Committee on Immunization, Dr. Shelley Deeks. The conference was moderated by Dr Laura Braden.

None of the federal or provincial officials appeared to defend the lockdown mandates.

Of note, the mainstream media has complained about not being invited to Freedom Convoy 2022 events. While the MSM was invited to this event, none of them showed.

For more on the conference, see <https://viralimmunologist.substack.com/p/doctors-supporting-the-freedom-convoy> and https://twitter.com/search?q=doctors%20conference%20&src=typed_query

WINDSOR BRIDGE OPERATIONS

Threats by police and the Premier of Ontario towards the protest at the Windsor Bridge resulted in large numbers of new protestors arriving. (The level of frustration of political officials appears to be rising. With each attempt to attack the convoy, public support increases. Government officials, unused to dealing with a genuine non-violent grass roots campaigns, lack any strategy to deal with them. Absent a strategy, they seem to just repeat a series of overly aggressive tactics which are backfiring.)

TD BANK TAKES TRUCKERS MONEY

TD Bank will hand over some \$1 million dollars of Freedom Convoy money raised through Go Fund Me. The bank says they would apply to surrender the money to an Ontario court. Additionally, TD Bank wants to turn over some \$400,000 in money raised through direct donations.

<https://toronto.ctvnews.ca/td-bank-to-hand-convoy-funds-to-court-as-organizers-turn-to-cryptocurrency-1.5778435>

TD BANK AND THE WORLD ECONOMIC FORUM

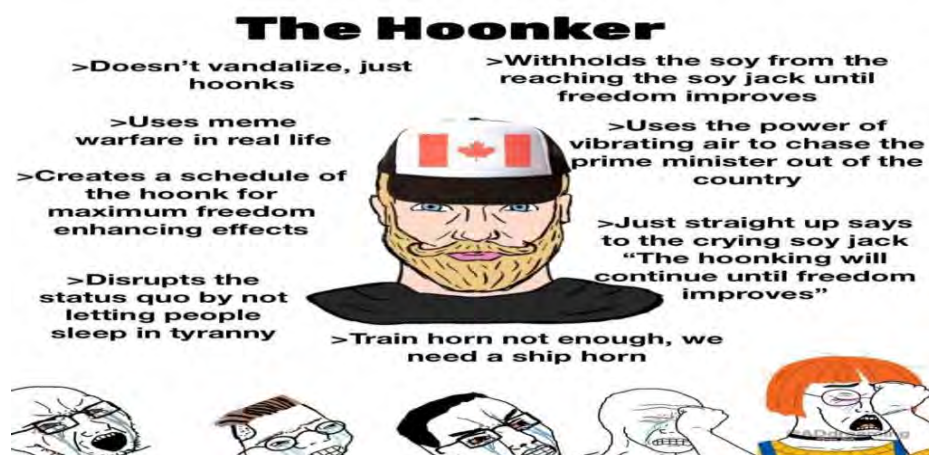
TB Bank is a partner of the World Economic Forum. For more on this see:

<https://www.weforum.org/organizations/td-bank-group>

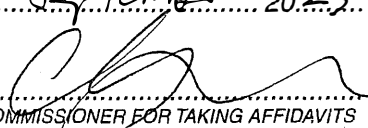
VIDEO CALLS FOR RESIGNATION OF POLICE CHIEF

A Tik Tok video purportedly shows a police officer in uniform calling for the resignation of Ottawa Police Chief Peter Stoly. Freedom Convoy 2022 notes that the officer is unidentified, the “uniform” does not appear to be police issue and vehicle does not appear to be a service vehicle. We assess this to be a fake video.

DAILY HUMOUR AND MEME WARFARE



This is Exhibit L referred to in the
affidavit of Trudy Moore
sworn before me, this 15th
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A COMMISSIONER FOR TAKING AFFIDAVITS

Freedom Convoy 2022

OFFICIAL DAILY EVENT AND SAFETY REPORT

END THE MANDATES is the message

Freedom Convoy 2022/Report 019/12 February 2022 Google Drive for all reports:
<https://drive.google.com/drive/folders/1PBERG6tDfBGKgsqy2SLVr9iYi4wW8z-7>

Follow Twitter @tomtsec for updates and info.



World Wide Support

OTTAWA WEATHER

Sunday, 13 February 2022: Highs of minus 14 and mainly sunny.

Monday 14 February 2022: Lows of minus 20 and highs of minus 14. Mix of sun and clouds.

INSPIRATIONAL THOUGHT FOR TODAY

Blessed are the peacekeepers, for they shall be called the children of God.

DISTURBING TRENDS IN ANTI-POLICE BEHAVIOUR

Over the last 48 hours, Freedom Convoy 2022 has noted an anti-police trend developing among some news personnel and politicians. They are accusing the police of not doing their jobs and advocate the use of mass arrests etc.

As a reminder to the press and politicians, maintaining the peace is the primary role of a police force. Various statements and demands from politicians do not outweigh the Charter of Rights/Freedoms and the Constitution. While much of the mainstream media and the political class are opposed to Freedom Convoy 2022, this does not give them the right to demand or aggregate for the use of violence by the police.

BRIAN PECKFORD SPEAKS

The Honourable Brian Peckford addressed the Freedom Convoy 2022 crowds on Saturday, 12 February 2022. Mr Peckford, as one of the original signers of the Charter of Rights and Freedoms, gave an extended speech in support of Freedom Convoy 2022. He gave unqualified support to the presence of Freedom Convoy 2022 and outline how Justin Trudeau has committed egregious acts against Canadians.

CHANGE IN POLICE STATUS?

Prime Minister Trudeau has stated that “Today, the OPP, the RCMP, and the Ottawa Police Service established an enhanced Integrated Command Centre in response to the escalation of the current occupation in Ottawa.” This would seem to indicate that the Ottawa Police are no longer in charge of policing events in Ottawa with respect to Freedom Convoy 2022.

PROTEST IN CANBERRA

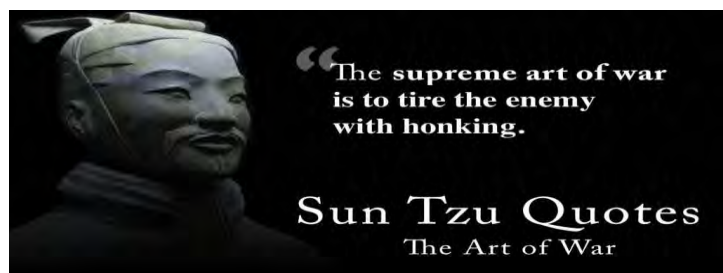
Tens of thousands of Australians turned out to a freedom protest in the capital city of Canberra on Saturday 12 February. The protests are against vax mandates and in favour of Canadian truckers. Police officials say they expect the protests to continue for at least two days.




CONSTITUTIONAL LAWYERS WARN OTTAWA POLICE TO LEAVE CONVOY PROTESTERS ALONE

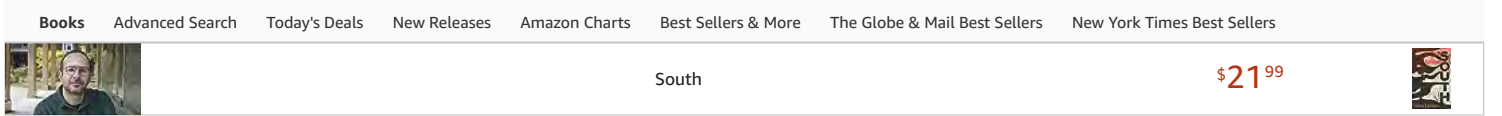
(09 Feb 2022) “People who bring food, water, gasoline or other supplies to peacefully protesting truckers are not breaking any law,” stated Justice Centre for Constitutional Freedoms (JCCF) lawyer Nicholas Wansbutter in a press release. “There is no basis for this police threat, that was issued by Twitter (Sunday) morning.” On Sunday, Ottawa Police had warned that “anyone attempting to bring material supports (gas, etc.) to the demonstrators could be subject to arrest. Enforcement is underway.” <https://tnc.news/2022/02/09/constitutional-lawyers-warn-ottawa-police-to-leave-convoy-protesters-alone/>

DAILY HUMOUR



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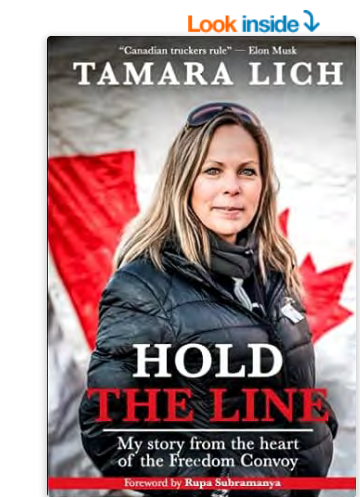
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by Tamara Lich (Author), Rupa Subramanya (Foreword) 4.8 ★★★★★ 1,332 ratings See all formats and editions

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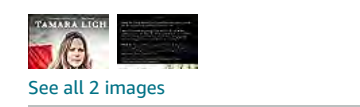
The media said the Canadian truckers were **Russian agents, controlled by Vladimir Putin.**

Justin Trudeau called them **extremists.**

And the government put the country under **martial law** to stop them.

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Print length	Language	Publication date
224 pages	English	April 18 2023



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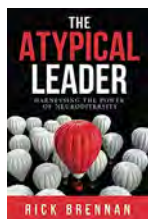
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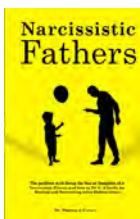
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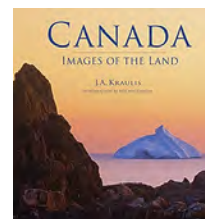
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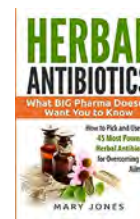
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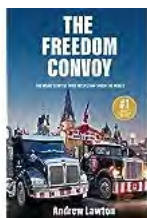


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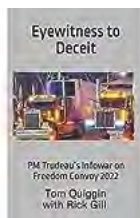


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Language : English
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ISBN-10 : 1990583032
ISBN-13 : 978-1990583032
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Best Sellers Rank: #1,916 in Books (See Top 100 in Books)
#5 in Canadian Biographies
#17 in History of Canada (Books)
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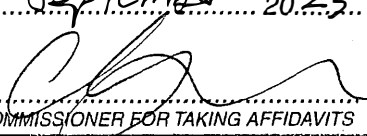
Tamara Lich

Tamara Lich is the woman who made Justin Trudeau blink.

A Saskatchewan native, Tamara is a passionate advocate for the rights and freedoms of all Canadians, with a special focus on the oil & gas sector.

✓ Read more

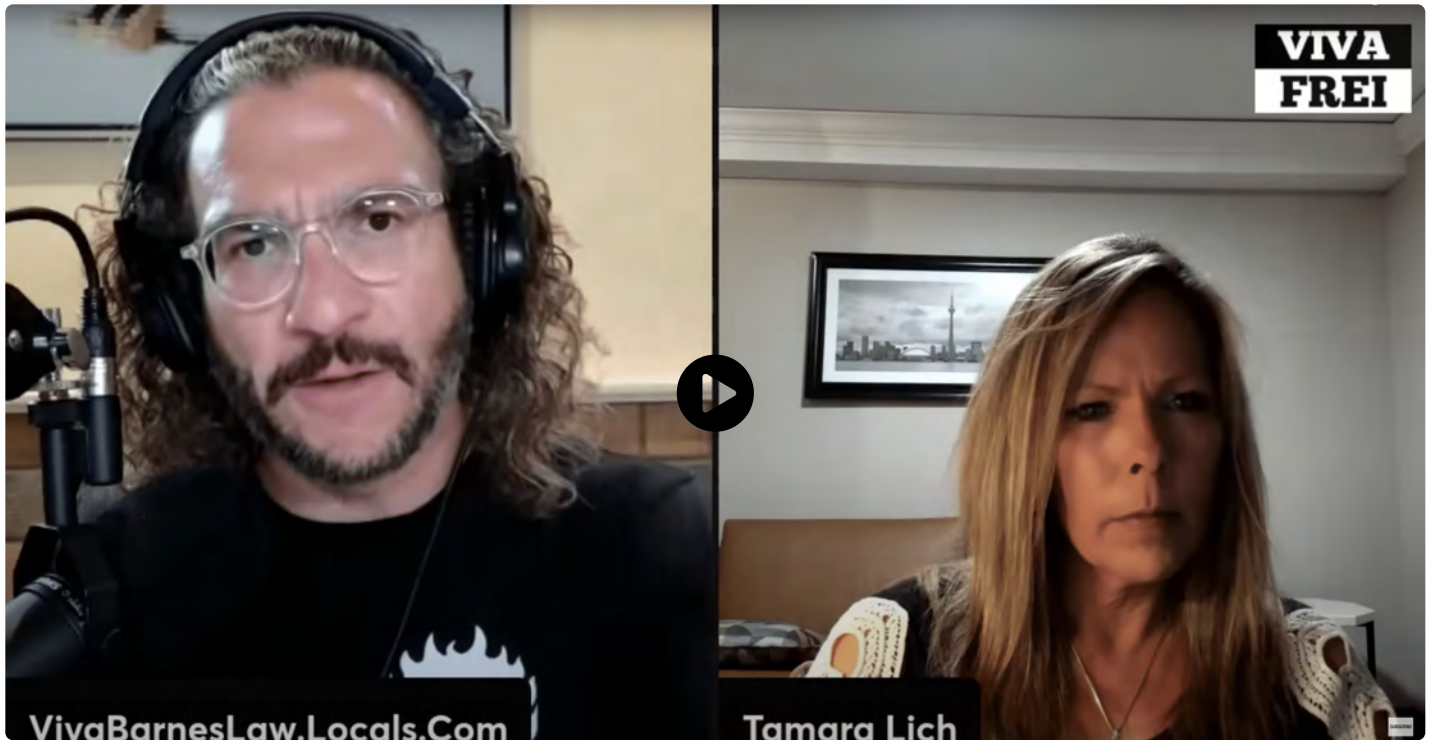
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The Rubin Report

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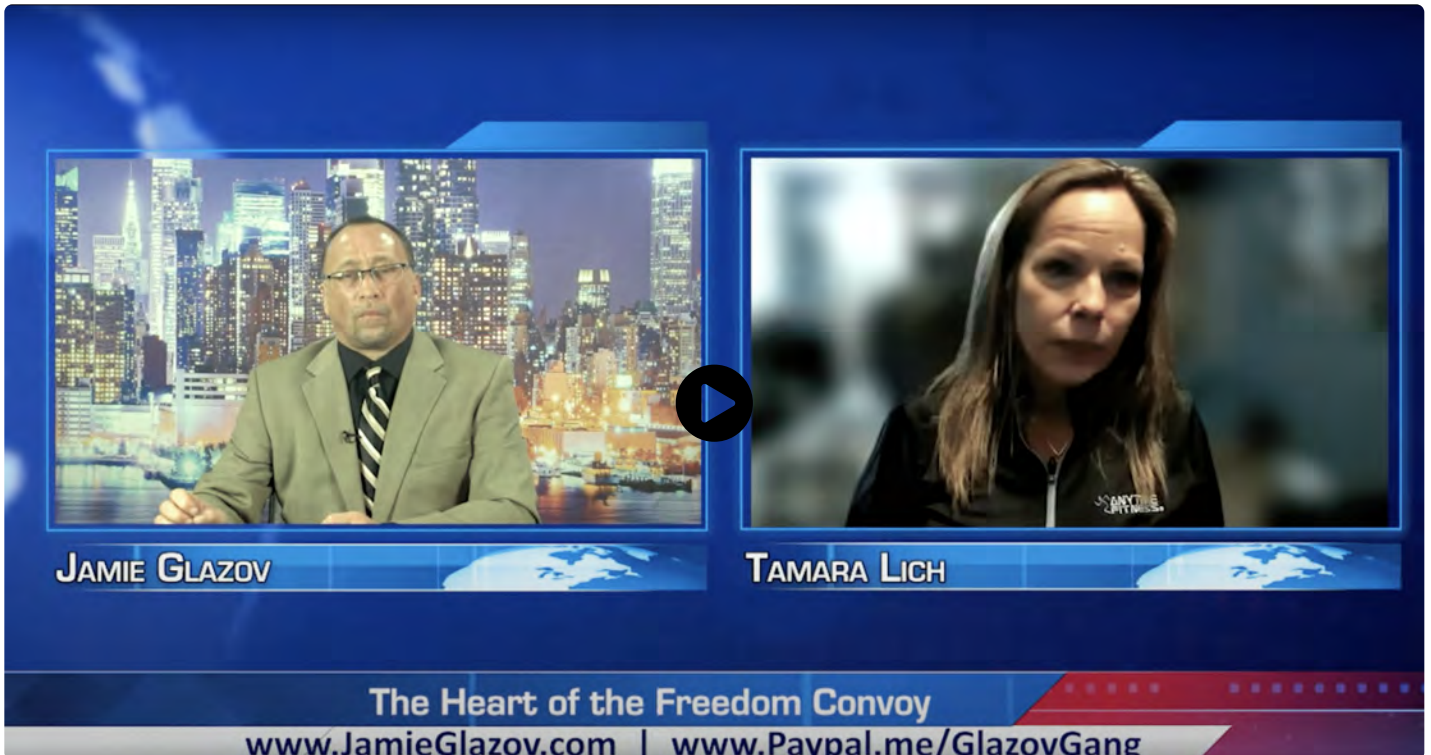


(/interview_the_andrew_lawton_show_hold_the_line)

The Andrew Lawton Show

(/interview_the_andrew_lawton_show_hold_the_line)

By Andrew Lawton



(/interview_the_glazov_gang_hold_the_line)

(/interview_the_glazov_gang_hold_the_line)

By Jamie Glazov

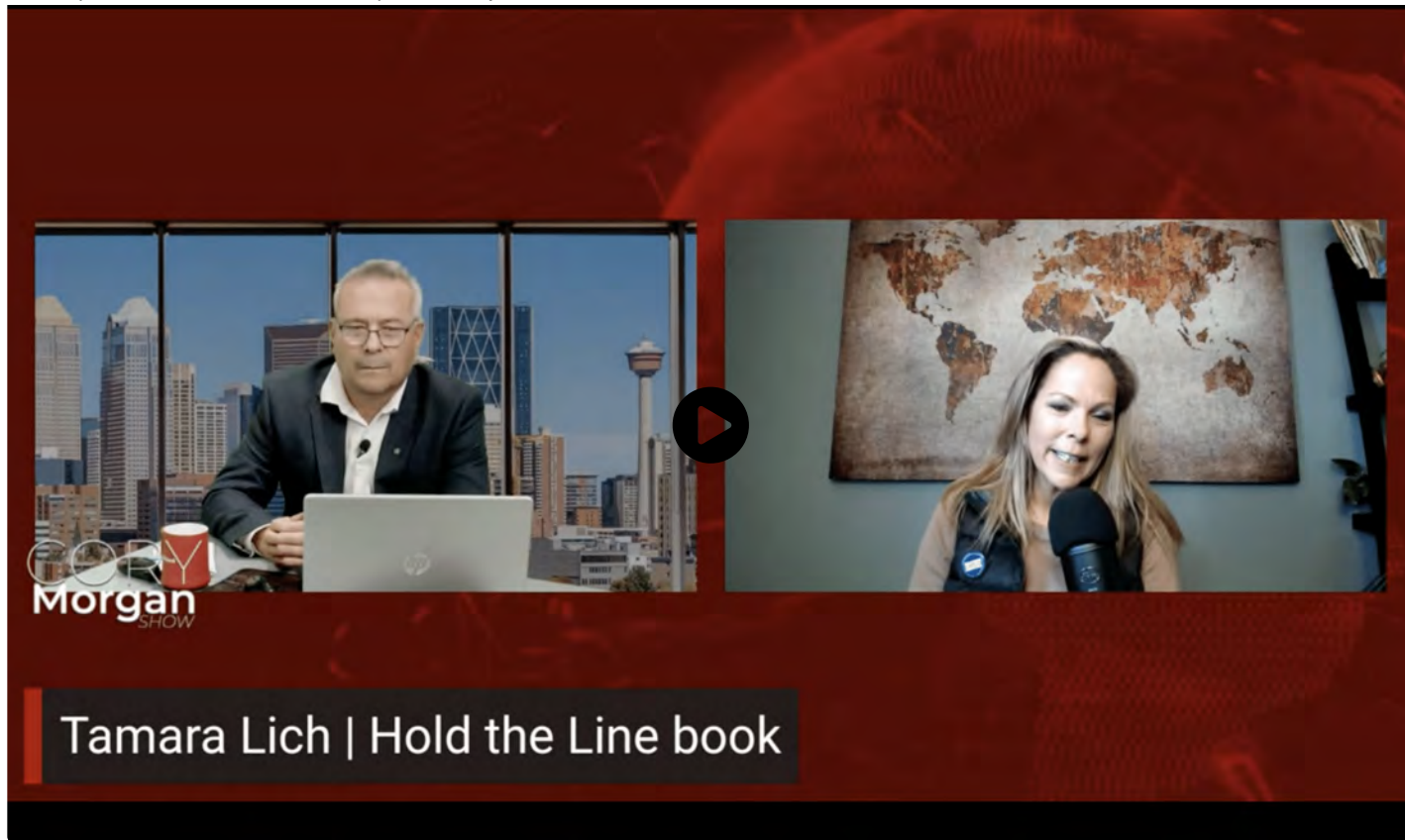


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The Ezra Levant Show

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(/interview_the_western_standard_hold_the_line)

The Western Standard

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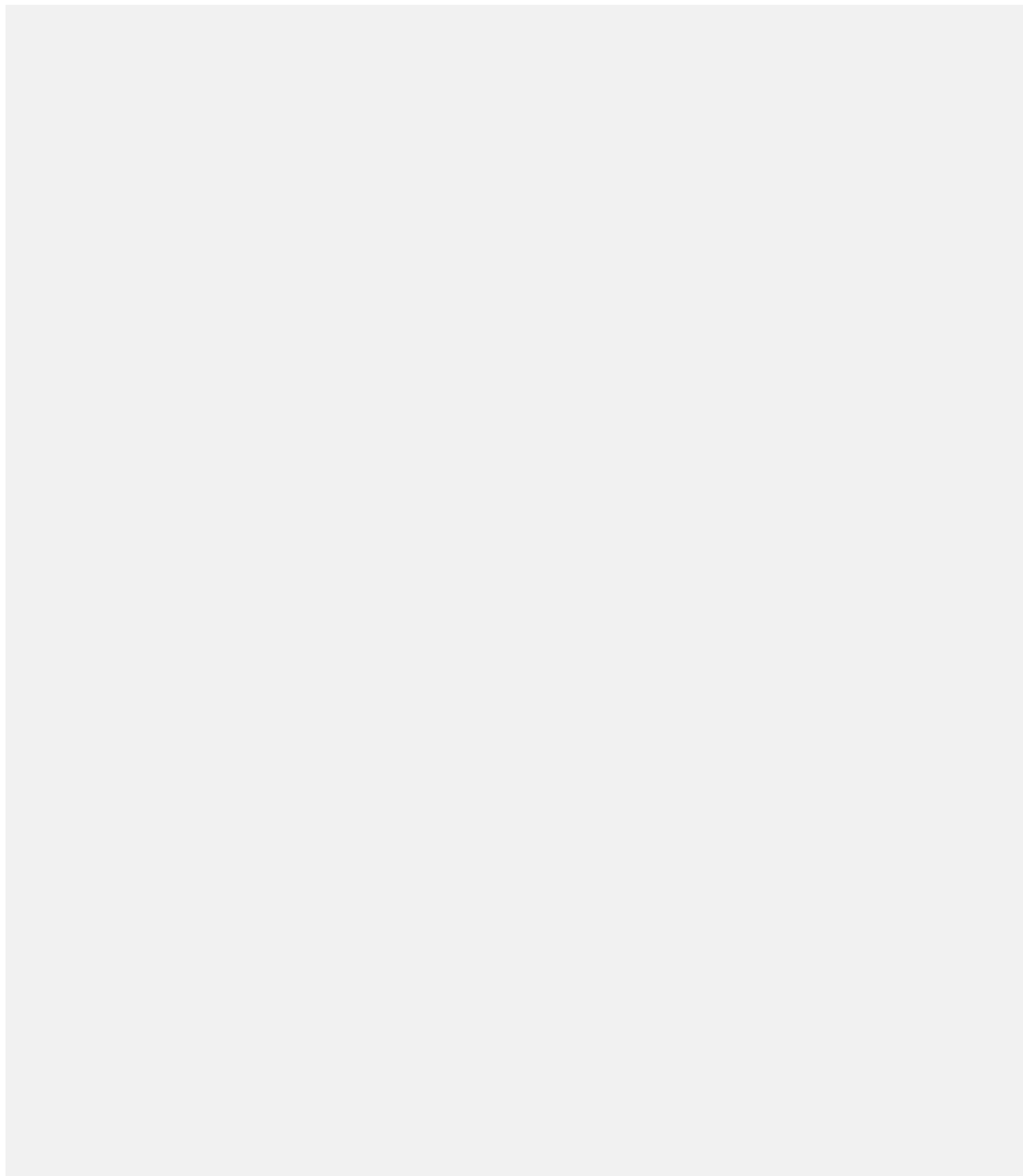
By Cory Morgan



Trucker Rebellion: Convoy to Ottawa

(/trucker_rebellion_convoy_to_ottawa_hold_the_line)

By Rebel News





Donate to help pay Tamara Lich's legal fees

The Democracy Fund, a Canadian charity, is supporting Tamara Lich by crowdfunding her legal bills. The cost of expert legal representation is \$300,000, which Tamara, an ordinary mom and grandma from Medicine Hat, Alberta, cannot afford. But we have a secret weapon: Lawrence Greenspon, one of Ottawa's top lawyers, is on Tamara's side. Lawrence is accustomed to handling complex and serious cases, but his team is expensive – and they are worth every penny. If you can, please chip in to help cover Tamara's legal fees.

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Surrey, BC - HOLD THE LINE Book Signing with Tamara Lich

Wed, Aug 9, 6:00 PM

White Rock Seventh-day Adventist Church • Surrey, BC

Starts at CA\$5.00





Aylmer, ON - HOLD THE LINE Book Signing with Tamara Lich

Thu, Aug 3, 5:00 PM

The Church of God • Aylmer, ON

Starts at CA\$5.00



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Wed, Aug 2, 5:00 PM

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Tue, Aug 1, 6:00 PM

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Sales Ended



Sat, Jul 29, 5:00 PM

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Starts at CA\$27.96



Creemore, ON - HOLD THE LINE Book Signing with Tamara Lich

Fri, Jul 28, 6:00 PM

Creemore Station On The Green • Creemore, ON

Starts at CA\$5.00





Barrie, ON - HOLD THE LINE Book Signing with Tamara Lich

Thu, Jul 27, 10:00 AM

Simmering Kettle Restaurant • Barrie, ON

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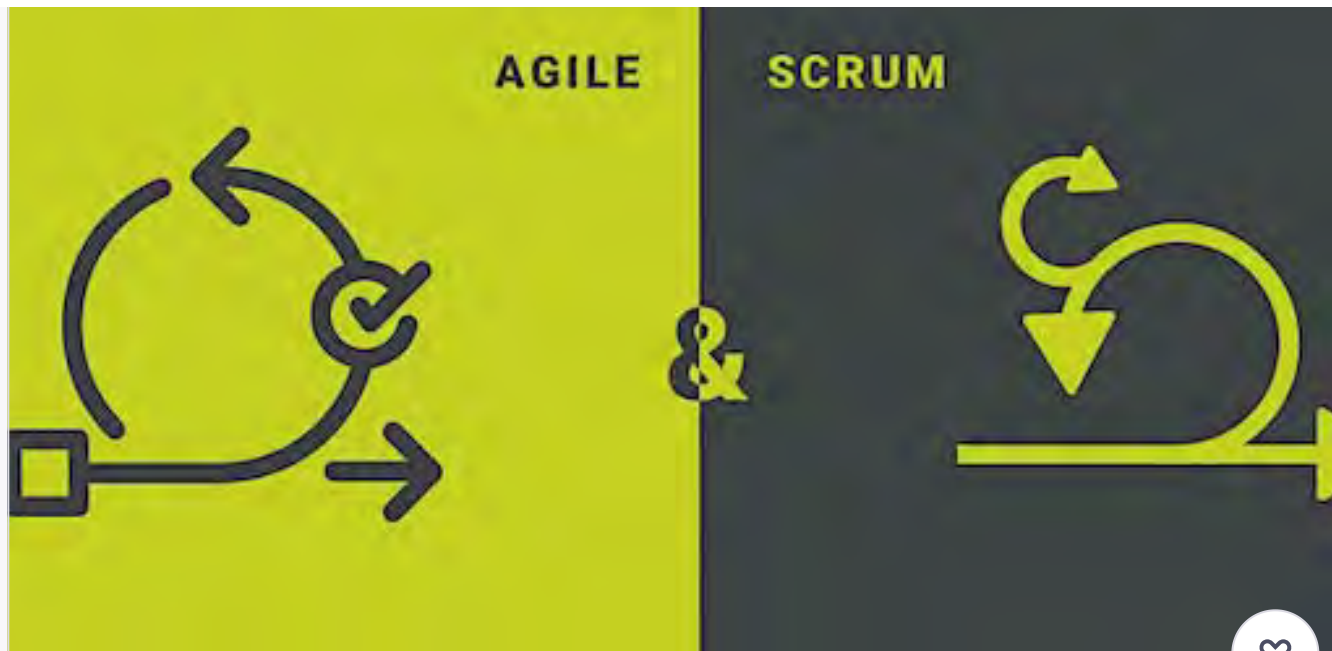
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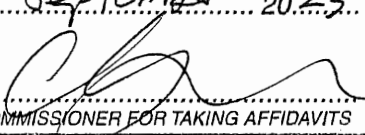
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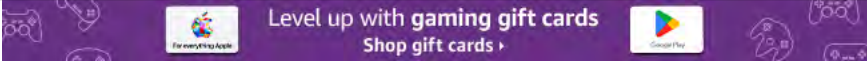
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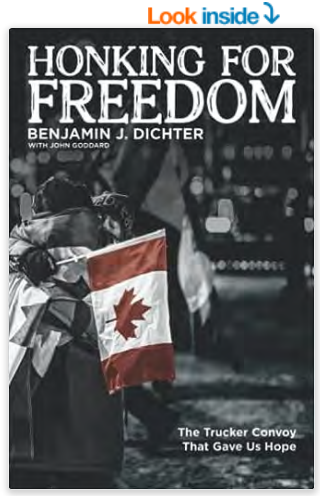
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Books > Biographies & Memoirs > Historical



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by Benjamin J Dichter (Author), John Goddard (Author)

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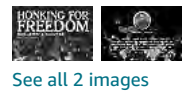
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Print length	Language	Publication date
225 pages	English	Nov. 9 2022



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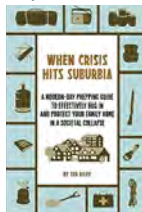
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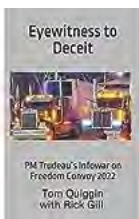


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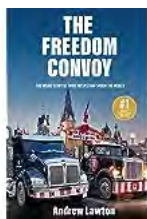


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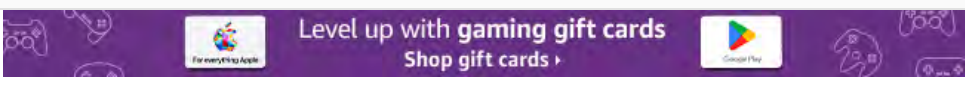


Benjamin J Dichter

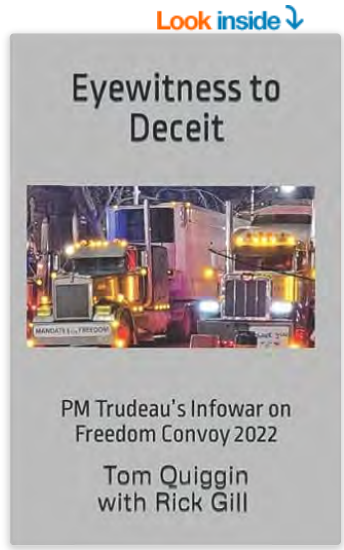
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Eyewitness to Deceit: Trudeau's Infowar on Freedom Convoy 2022

by TOM QUIGGIN (Author), RICK GILL (Author)

4.7 ★★★★★ 255 See all formats and ratings

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(Preface by former RCMP Corporal Danny Bulford)

Tom Quiggin worked within Freedom Convoy 2022 in an intelligence capability. His work was to prepare analytical reports to provide protective intelligence for Freedom Convoy 2022, first responders and the

Print length	Language
214 pages	English

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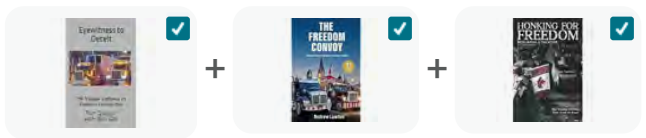
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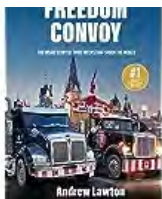
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Product details

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Paperback : 214 pages

ISBN-13 : 979-8835254828

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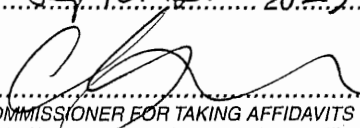
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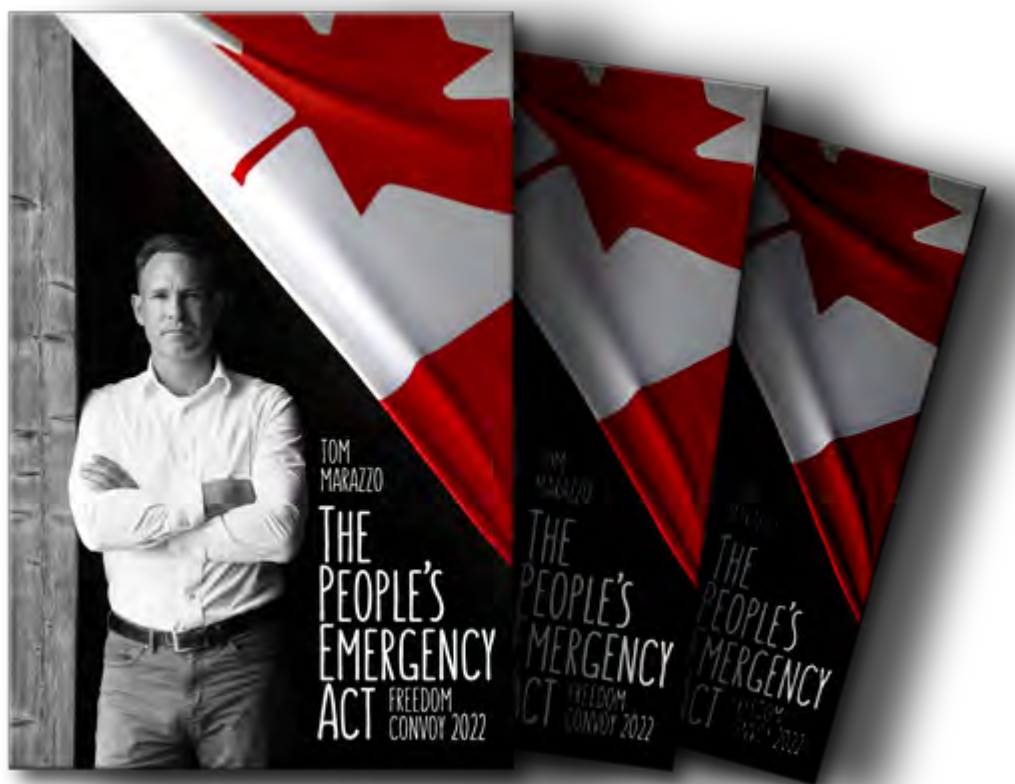
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Millions of Canadians saw what was happening to humanity and were not going down without a fight, so three weeks before Justin Trudeau invoked the Emergency Act of 1988 on legal and peaceful protesters in Ottawa – we, the

solidarity against the tyranny being imposed on us.”

TOM MARAZZO

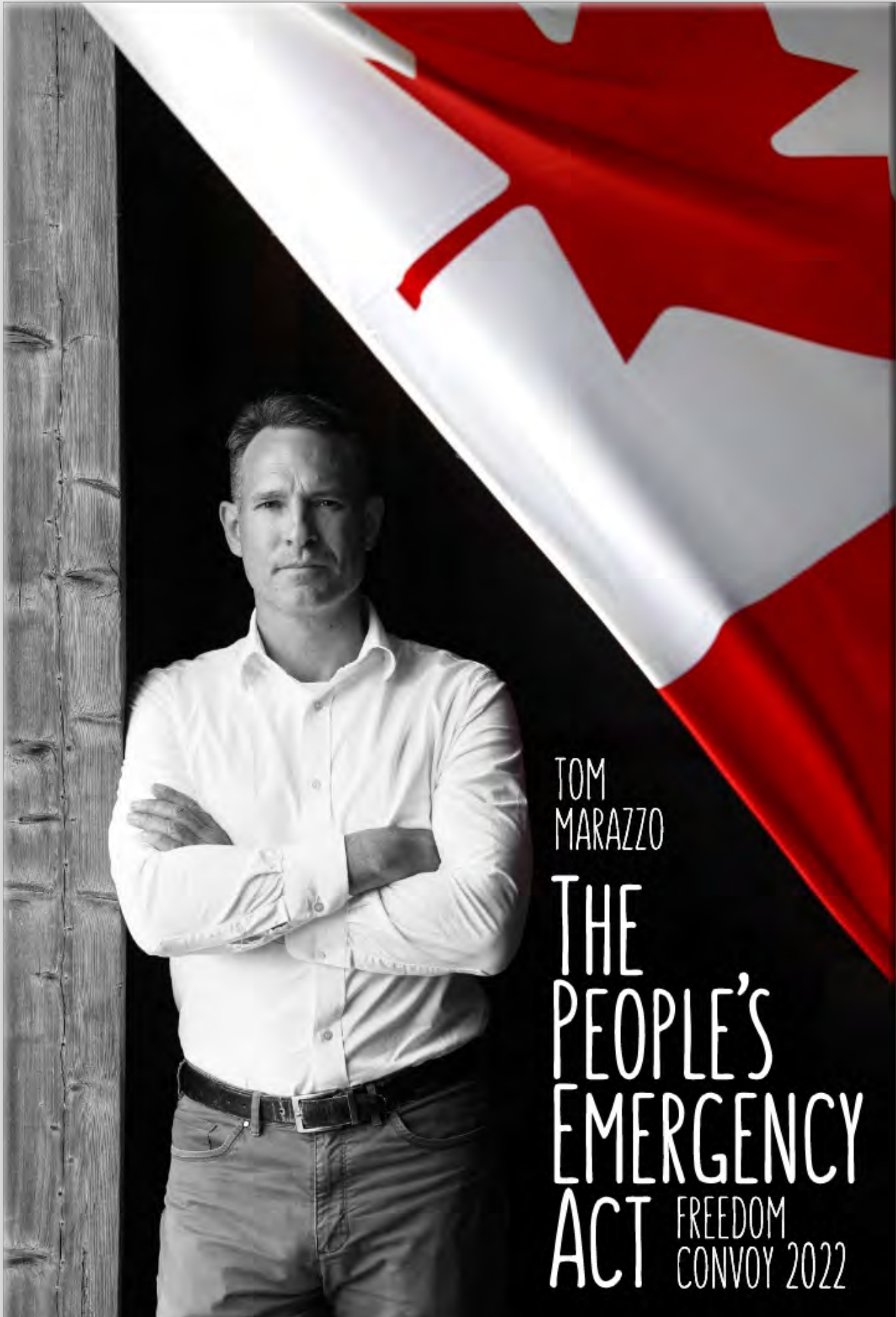


The People's Emergency Act - Freedom Convoy 2022 Book Trail...



The People's Emergency Act - Freedom Convoy 2022 Book Trail...





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MEDIA



Downloadable Media Kit

[TomMarazzo-MediaKit-2023-01-16](#)



Tom Marazzo with Rupa Subramanya, Columnist and Freedom Convoy 2022 supporter

Tom Marazzo | Dean Blundell Interview Segment, 2022-09-07

Tom Marazzo | Dean Bundell Interview Seg...



Tom Marazzo and No More Shots, Toronto, Ontario, 2022-09-03

Tom Marazzo | No More Shots Event - Toro...



Tom Marazzo Freedom To Choose, Woodville, Ontario,

Tom Marazzo | Woodville ON Aug 22, 2022



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Tom Marazzo Speaking at Veterans for Freedom Fundraiser, Peterborough, Ontario, 2022-05-14

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OTTAWA | News

'Rolling Thunder' event rides into and out of downtown Ottawa



People waving Canadian and American flags wait at the National War Memorial for the 'Rolling Thunder Ottawa' event on Saturday. Ottawa police prevented the motorcycle convoy from circling the war memorial, with riders turned around at Elgin Street and Slater Street. (Josh Pringle/CTV News Ottawa)



Josh Pringle
CTV News Ottawa Digital Multi-Skilled Journalist

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Updated Aug. 5, 2023 4:53 p.m. EDT

Published Aug. 5, 2023 4:00 a.m. EDT

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Saturday morning as part of the 'Rolling Thunder Ottawa' event, billed as a ride to salute Canada's veterans, but were stopped by police one block from the National War Memorial and redirected out of the area.

As Ottawa police and Ontario Provincial Police kept an eye on the event, dozens of motorcyclists travelled from Arnprior to downtown Ottawa along Hwy. 417 just before 12 p.m.

In Ottawa, the 'Rolling Thunder Ottawa' convoy travelled from Laurier Avenue, north on Elgin Street to Albert Street, where motorcyclists turned around and travelled south on Elgin to Laurier and then back to Nicholas Street and Highway 417. Ottawa police closed Elgin Street north of Albert Street, redirecting participants away from the war memorial.



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Despite being stopped one block from the National War Memorial, a post on the 'Rolling Thunder Ottawa' Facebook page said, "Another successful run! Thank you everyone."

Dozens of people waving Canadian and U.S. flags and holding signs protesting the federal government and Prime Minister Justin Trudeau stood along Elgin Street and at the war memorial.

Roads reopened to traffic shortly after the motorcycle convoy left the Centretown area.

Ottawa police Chief Eric Stubbs had said police had a "robust plan" for the event. Dozens of Ottawa police officers could be seen on a bicycles, motorcycles and in patrol vehicles in downtown Ottawa to monitor the event.

'Rolling Thunder Ottawa' organizer Neil Sheard said on Facebook that the rally was intended to be a "ride around" the National War Memorial to salute the men and women that died for our country. Motorcyclists in the rally were scheduled to attend a barbeque at an undisclosed location

The 'Rolling Thunder' event was first held in Ottawa in April 2022, two months after the 'Freedom Convoy' event was held to protest the COVID-19 vaccine mandates and other public health measures. At the time, Sheard said that the rally was intended to "give back the dignity" to the National War Memorial. Ottawa police, with assistance from Ontario Provincial Police and other police forces, maintained a heightened police presence during that weekend.

'Rolling Thunder' listed Veterans for Freedom and Freedom Fighters Canada as its partners for the first event in 2022, both of which appeared to have links to the 'Freedom Convoy' event.

OC Transpo

Staff in OC Transpo's Transit Operations Centre will be monitoring roads in downtown Ottawa for any traffic impacts, and will adjust service, if required, according to the city.

"OC Transpo will maintain regular service during the demonstration," the city said.

"Should extended road closures occur, OC Transpo and Para Transpo service will be maintained with detours, as required, and there may be some delays."

Ottawa Bylaw Officers

Ottawa Bylaw officers will be out on Saturday to ensure all parking regulations are followed by residents and visitors.

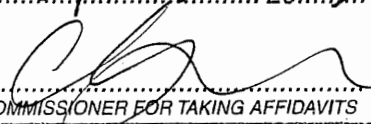
"All vehicles found in violation of parking restrictions will be ticketed and/or towed," the city said.

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Check back soon

Once posts are published, you'll see them here.

EVENT CALENDAR

August 2023

today

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

PAST EVENTS



March 5th

First march in Ottawa after the unlawful breakup of the Convoy



March 18th

Ottawa Convoy to Toronto for the World Wide Rally.
Vaughan Mills Rally



March 27th

Quebec City Convoy to Ottawa Rally



March-May

Fringy Fridays & Unacceptable Views Saturdays



April 16th

The first North American Unity Tour
Niagara Falls



April 23rd

Convoy to Montreal in support of Quebec and their fight against Bill 15



April 29th

Rolling Thunder
Ottawa



May 14th

North American Unity Tour Stanstead QC



June

Unacceptable Views Saturdays



July 1st

Canada Day on Parliament Hill



July 15th

Convoy to Tilbury Campout Weekend



July 23rd

We Move As One world wide rally to support the Dutch



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

ZEXI LI et al.

- and -

CHRIS BARBER et al.

Plaintiffs (Respondents)

Defendants (Moving Parties)

ONTARIO
SUPERIOR COURT OF JUSTICE

AFFIDAVIT OF TRUDY MOORE
(Affirmed September 1, 2023)

CHAMP & ASSOCIATES
Equity Chambers
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Ottawa, ON K2P 0W6
T: 613-237-4740
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Per: Paul Champ
LSO#: 45305K
E: pchamp@champlaw.ca

Solicitors for the Plaintiffs (Respondents)

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

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, GIVESENDGO LLC,
JACOB WELLS, HAROLD JONKER, JONKER TRUCKING INC., and BRAD HOWLAND

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF ZEXI LI
Affirmed September 1, 2023

I, ZEXI LI, of the City of Ottawa, in the Province of Ontario, AFFIRM:

1. I am a representative Plaintiff in this proposed class action and a responding party in this motion. As such, I have personal knowledge of the matters to which I hereinafter depose except where I have stated my evidence to be on information and belief, in which case I have indicated the source of my information and my belief in the truth of the information.

2. I am a federal public service employee. I have been working out of my home since March of 2020. I reside in the Centretown neighbourhood in the heart of downtown Ottawa.
3. As a downtown resident living in a national capital city, large protests have been a fact of life for me. On occasion they cause some inconvenience in that roads may temporarily be blocked off and protestors may shout or chant and even use noise-making devices. I accept and embrace these disruptions as manifestations of a vibrant democracy, even if I don't agree with the particular cause. However, in the time I have lived in Ottawa I have never experienced a protest anywhere near as disruptive, disrespectful and harmful as the one mounted by the so-called Freedom Convy (the "Convoy").
4. On Friday, January 28, 2022 I observed dozens of vehicles including cars, pickup trucks and semi-trucks arriving in downtown Ottawa as part of the Convoy.
5. By Saturday, January 29, 2022, there appeared to be hundreds of vehicles parked throughout parts of Centretown and the adjacent neighbourhoods of Lowertown and Sandy Hill without regard for parking bylaws or other rules of the road. I observed vehicles parked in the middle of arterial and residential roadways as well as in bicycle lanes and on sidewalks. This made it difficult for pedestrians, cyclists, local vehicles, city buses and emergency services vehicles to navigate the affected streets.
6. It felt very much to me like an occupation of my city. Hundreds of trucks would remain entrenched in the downtown core for over three weeks. While I never

personally counted the number of vehicles, I read media reports which estimated there were approximately 400 vehicles unlawfully parked in the area. Attached hereto as **Exhibit "A"** are CBC media reports dated February 8, 2023 and February 13, 2023 which include references to the estimate numbers of trucks.

7. Most of the parked vehicles were idling their engines for up to 24 hours a day. The smell of diesel fumes throughout the downtown core was overwhelming. I often wore a mask when walking around outside due to the uncomfortable effects of the diesel fumes on my lungs. I also wore my mask as a precaution against contracting and/or transmitting COVID-19.
8. From the first day the Convoy vehicles began arriving in Ottawa I was tormented by persistent and painfully loud honking from several large trucks which were parked outside my residence. Some of those vehicles would remain in place throughout the Convoy occupation.
9. While some of the honking sounds appeared to emanate from regular sized motor vehicle horns, the loudest and most persistent honks came from large transport-type trucks. Some of those trucks were equipped with horns which emitted loud honking noises typical of vehicles of their size. Others were equipped with horns which were more similar in tone and volume to train horns. The train horns were as loud as, if not louder than, anything I had ever heard.
10. From January 28, 2022 to approximately February 7, 2022 I was inundated with the sounds of honking horns, including train-type horns, from morning to night, sometimes as late as 1:30AM. With the exception of some short periods of

reprieve late in the night, for the first week of the Convoy occupation the horn sounds felt nearly constant.

11. I downloaded an application on my mobile phone called Decibel X which measures sound levels. When the sounds of honking horns were at their peak, Decibel X recorded sound levels as high as 84 decibels (dBA) within my apartment. The unit in which I reside is over ten stories above ground.
12. This constant honking caused me severe physical and emotional distress. My nerves were frayed. I couldn't sleep. I did not feel the sense of peace, safety and serenity which I usually feel when I'm at home. During the brief periods when the sounds of honking horns would subside, I was unable to enjoy the moment of relative quiet because I would become riddled with anxious anticipation for the moment it would start up again. Waiting for the next honk was almost as unbearable as the sound of the horns themselves.
13. That first week of the occupation, I did not have a restful night's sleep. The only way I could fall asleep and temporarily escape the noise was by playing music on external speakers at 70%-80% volume and inserting noise-cancelling earphone or earplugs into my ears.
14. I was scared to go outside but did venture out when necessary. Before leaving my residence I would often insert noise cancelling headphones into my ears. Nonetheless, the sound of honking horns remained unbearable. I could physically feel the noise vibrating inside my ears.

15. When I would get up the courage to leave my apartment, I was almost immediately subjected to heckling by members of the Convoy who would yell at me about my mask. If I would ignore the heckles, members of the Convoy would respond by honking their horns at me. In response to the horns being honked in such close proximity to me I would almost invariably flinch, causing members of the Convoy to cheer loudly and laugh at my expense. It was awful. I have never felt so unsafe or demoralized in my own community.
16. Despite the chaos downtown, my frequent calls to the Ottawa Police Service either went unanswered or I was told that there was nothing they could do. The fact that the police were apparently impotent to enforce basic order in my neighbourhood, in a context where I and others were being actively harmed, made me even more anxious and fearful.
17. By February 4, 2022, I was feeling despondent but also ready to do whatever I could to protect my community. I retained counsel and commenced the within action. On that same date, I applied to the Ontario Superior Court of Justice for an interim injunction to stop the use of air horns and train horns in the downtown core (the "Honking Injunction").
18. On February 7, 2022, I observed the hearing of the motion for an interlocutory injunction by videoconference. I was watching this motion hearing when the Court granted the Honking Injunction, prohibiting the honking in downtown Ottawa for a period of 10 days.

19. Even though there were other elements of the Convoy protests which I found to be odious and annoying, I did not request that any further restrictions be imposed on the protestors. In fact, my lawyers consented to a term affirming that peaceful, lawful and safe protest was still permitted as long as the injunction order was complied with. Attached hereto as **Exhibit "B"** is a true copy of the February 7, 2022 interim injunction order. Attached hereto as **Exhibit "C"** is a true copy of the transcript of the February 7, 2022 proceedings on the motion for an interim injunction order including the Reasons for Judgment.
20. At approximately 2:30PM on February 7, 2022, just before the Court issued its decision granting the injunction, I heard the honking outside my building intensify significantly.
21. Shortly after the Court granted the injunction, at approximately 3:10PM, one of my neighbours sent me a link to a Facebook Live video posted by the Defendant Patrick King ("King") to "The Real Pat King" Facebook page. It is my understanding and belief, from my own Facebook use, that "Facebook Live" videos are broadcast in realtime.
22. The broadcast of King's Facebook Live video was timestamped as starting at 3:03PM on February 7, 2022, and lasting for 5 minutes and 46 seconds. The words "BREAK BREAK BREAK" appeared under the video on the Facebook page.
23. I watched King's entire Facebook Live video from approximately 3:10PM to 3:16PM.

24. Starting around 0:10 into this Facebook Live video, King says he wants all truckers' attention and tells them to "break break break". He then makes the following statements throughout the video:
- (a) Starting at approximately 0:28 in he states that he has a message that needs to go out to "every trucker, everybody on the Convoy" and that everybody needs to be "dead silent on the horns";
 - (b) Starting at approximately 0:54 in he states that a Judge has issued an injunction against the horns for 10 days, and repeats that there needs to be "silence on the horns";
 - (c) Starting at approximately 1:10 in he states, "This is their grounds to arrest you and pull you out of your trucks";
 - (d) Starting at approximately 2:50 in he states, "For the next ten days, you cannot blast your horns. I understand it's hard, we love them, we absolutely love them, but no more horns";
 - (e) Starting at approximately 3:55 in he states, while laughing, "Remember, these people haven't been able to sleep for 10 days. Okay, it's kind of funny. I'm not going to laugh. I'm not going to lie, it's pretty hilarious"
 - (f) Starting at approximately 4:07 in he states, "So now, you've got the citizens of Ottawa requesting the municipality of Ottawa to put in an injunction to stop the horns, and now they put an injunction in there. And now they're asking for the Feds to come and negotiate and get us out of their city. It's working, it's working beautiful. It's awesome guys. I'm not laughing, you're laughing. It's kind of funny, it's kind of funny how we can hug and laugh and have a good time, and things are working. Ladies and gentlemen, from the bottom of my heart, great job out there. You're doing fantastic, let's keep up that great work. Let's keep up that enthusiasm"
 - (g) Starting at approximately 5:00 he repeats to "stop on the horns" and that "the injunction's been put in for 10 days".
25. At around 3:30PM on February 7, 2022, I noticed that the honking outside my building had stopped entirely. While the honking subsided over the next few

days, it started ramping up again by the weekend. By Friday February 11, 2022, I would frequently hear loud honking again.

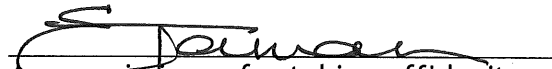
26. On February 16, 2022, my lawyers sought and obtained an extension of the Honking Injunction which would see it remain in place for a further period of 60 days. The order again included a term affirming the continued right to peaceful, lawful and safe protest. Attached hereto as **Exhibit "D"** is a true copy of the February 16, 2022 injunction order. Attached hereto as **Exhibit "E"** is a true copy of the transcript of the February 16, 2022 proceedings on the motion for an injunction order including the Reasons for Judgment.
27. While it was not as constant and sustained as it had been in the first week, painfully loud honking remained a feature of my experience as a resident of downtown Ottawa until the last of the Convoy vehicles finally cleared out of the city between February 18, 2022 and February 19, 2022.
28. Even after the first Honking Injunction was issued, the noise from the horns affected me profoundly. It was difficult to get anything done because of the noise. It was hard to focus on simple tasks and I found it difficult to get any work done because I was working from home. I felt like I couldn't concentrate on anything. The stress and worry about when things would get back to normal was all-consuming.
29. Convoy participants continued to occupy the roads and sidewalks of downtown Ottawa with idling vehicles and semi-permanent encampments. There were bonfires burning in the streets adjacent to canisters of fuel. Fireworks would often

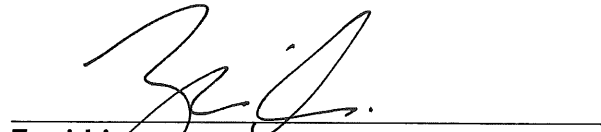
go off at night. The fireworks contributed to the incessant noise downtown and also caused me to fear that there could be a fire. I was worried that if a fire were to start, it would be difficult if not impossible for emergency services vehicles to access the scene.

30. I love my community and despite everything I went through, I know that there are others who suffered even greater effects than I did.

31. I make this affidavit in good faith and for no improper purpose.

AFFIRMED before me in the City of)
Ottawa, in the Province of Ontario,)
this 1st day of September, 2023.)
)


A commissioner for taking affidavits


Zexi Li

This is Exhibit "A" referred to
in the Affidavit of ZEXI LI,
affirmed before me this 1st day of September,
2023.


A Commissioner, etc.

Ottawa

Towing companies on city contracts refuse to move convoy vehicles

City, police say finding willing tow truck operators is a Canada-wide challenge

[Joanne Chianello](#) · CBC News · Posted: Feb 08, 2022 4:00 AM EST | Last Updated: February 8, 2022



There are between 400 and 500 vehicles illegally parked downtown, and the the tow truck operators on contract to the city won't move them. (Adrian Wyld/The Canadian Press)

[to haul vehicles out of protest areas](#), according to the city's top public servant.

"I've contacted them all and they're all refusing, as of today, to provide heavy tow truck work," city manager Steve Kanellakos told reporters Monday evening [after a six-hour special council meeting](#).

"Right now we're reviewing their contracts or standing offer, and reviewing what actions we can take to deal with this unprecedented situation."

More than 400 vehicles are parked illegally in the downtown core, according to Ottawa police, the majority of them heavy trucks (and at least one crane). One of several challenges facing the Ottawa Police Service and the city is how to get them off the streets if protesters refuse to drive them away.

- [Removing trucks could be almost 'impossible,' say heavy towing experts](#)
- [Protest supporters threaten tow truck operator for relocating protesters' shack](#)

The demonstrators, who began arriving in Ottawa more than a week ago, have said they will only leave after COVID-19 mandates are lifted.

This is proving to be a serious issue for city officials. Experts told the CBC [towing a truck without the help of a driver](#) is already difficult. It's impossible without towing equipment.

WATCH | [Forcibly removing trucks is almost impossible, experts say:](#)



Towing companies fear backlash of removing trucks parked downtown

2 years ago | 0:49

David Allen, president of Gary's Towing, says the political backlash and subsequent financial hit wouldn't be worth taking the job of removing the trucks currently sitting in Ottawa's downtown core.

It's not clear how many towing companies have standing offers with the city, or the terms of their contracts.

And it doesn't seem like Ottawa is having much luck outside city limits.



According to Kanellakos, Mayor Jim Watson has reached out to his counterparts in other Ontario municipalities, but no dice.

"Right now, the consensus seems to be that many of them — or most of them — don't want to do the work because ... they rely on on the the heavy truck industry for their livelihood, and they don't want to damage that part of their business. That's the position they're taking, at least."

- [**CBSA lists Ambassador Bridge 'temporarily closed' as protesters continue to block it**](#)
- [**Traffic moving again at Alberta border crossing after protesters resumed blockade**](#)

Kanellakos said the city is speaking with federal and provincial officials to come up with a solution.

Deputy police chief Steve Bell agreed that finding companies that will agree to tow protesters has been a challenge in "every jurisdiction that's faced this, and it's forcing us to come up with some creative solutions."

He wouldn't elaborate on what those creative solutions might be, but said police are coming "toward a position where we're not going to let the tow truck operators ... be an obstacle to ending what's occurring."

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Ottawa

City brokers deal for trucks to leave Ottawa's residential neighbourhoods

Mayor says he'd meet with protest organizers once trucks moved, but unclear demonstrators on board

[Joanne Chianello](#), [Kimberley Molina](#) · CBC News ·

Posted: Feb 13, 2022 3:32 PM EST | Last Updated: February 14, 2022



Two trucks idle along the Queen Elizabeth Driveway in Ottawa on Jan. 30, 2022, the first weekend protesters began filling the city's downtown core. The city has negotiated an agreement with one of the convoy

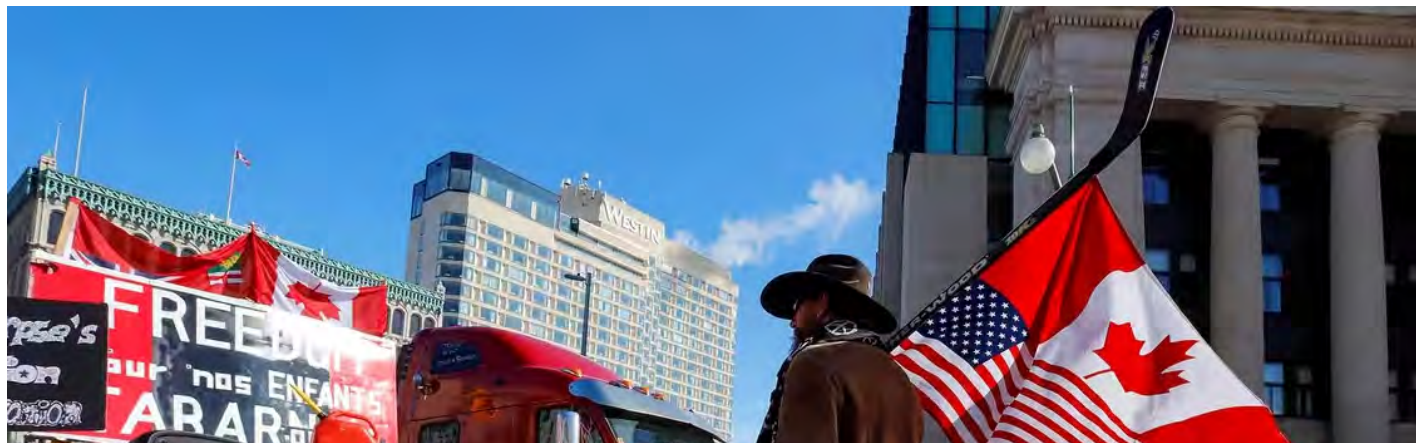
The City of Ottawa has come to an agreement with one of the leaders of the weeks-long demonstration that could see hundreds of trucks and other vehicles roll out of the residential areas in the downtown core over the next 24 hours.

Some of the vehicles won't leave town, but may be moved to Wellington Street and Sir John A. Macdonald Parkway, where many trucks have already been parked since day one.

In a letter sent Saturday to Tamara Lich, one of the Freedom Convoy 2022 organizers, Mayor Jim Watson outlined his concerns around the continuing downtown occupation.

"My overarching concern is for the safety and security of our residents, business owners and workers in the downtown core, who are innocent collateral damage of this unprecedented national and international demonstration," he wrote.

WATCH | Agreement reached between Ottawa mayor and protest leader:



Ottawa's mayor reaches deal to limit protest as residents push back

2 years ago | 5:57

The mayor of Ottawa has reached a deal with a protest organizer to limit demonstrators to near Parliament Hill, but not before frustrated residents pushed back against the protesters and police were met with criticism over their response. Frustrated residents took matters into their own hands in Ottawa, staging

government is also calling the apparent inaction by Ottawa police 'inexplicable'.

"Our residents are exhausted and on edge, and our small businesses impacted by your blockades are teetering on the brink of permanent closure."

Watson said he would be willing to meet with Lich once the trucks are moved.

- [Fearful Ottawa residents flee downtown as protest drags on](#)
- [Counter-protests grow, block convoys on 3rd weekend of downtown demonstrations](#)

Relocation — if it happens — may take 72 hours

Hundreds of heavy trucks have been parked on city streets for more than two weeks, ever since a truck convoy rolled into the nation's capital to protest various COVID-19 public health mandates.

Watson asked organizers to remove trucks from various residential areas by noon Monday. They include the residential streets south of Wellington Street and Parliament Hill, the ByWard Market and the [parking lot of a baseball stadium on Coventry Road](#), where a large contingent of protesters created an encampment early on.



Trucks and other vehicles are parked on a residential stretch of Kent Street Sunday afternoon. Mayor Jim Watson says it may take up to 72 hours for them to relocate. (Joanne Chianello/CBC)

Protesters have now been asked to limit the trucks to Wellington Street between Elgin Street and the Sir John A. Macdonald Parkway.

Given the fact there are roughly 400 trucks in the downtown core, Watson acknowledged it may take up to 72 hours to move them.

He also asked organizers to stop requesting other demonstrators join the protest in order to ensure the trucks are relocated.



In a letter to Mayor Jim Watson Saturday, protest organizer Tamara Lich said she agreed to the terms and that it was never the convoy's intention to disturb residents and local businesses. Hours after the letter was released, she tweeted there was no deal. (Adrian Wyld/The Canadian Press)

Organizer trying to get 'buy-in' from truckers

It's unclear who exactly was involved in brokering this deal.

In the past, Ottawa police have said they were in contact with several of the convoy leaders, even before the protesters arrived in the city more than two weeks ago. Police have also conceded that the protest representatives they've been speaking with do not represent all the demonstrators.

In her letter to Watson, Lich said it was never the convoy's intent to disturb residents and businesses and that — with the help of authorities — the trucks should start moving Monday.

"The Freedom Convoy Board agree with your request to reduce pressure on the residents and businesses in the City of Ottawa. We have made a plan to consolidate our protest efforts around Parliament Hill," she wrote.

After Pat King, who is closely associated with the demonstrations, posted a video Sunday evening telling truckers the letter was a fake and not to go anywhere, Lich posted on Twitter that the "media lies" and that there is no deal. Yet, two hours after that, Lich posted again that the plan to move vehicles out of the downtown would go ahead.



Not found



Not found

Reaction from downtown councillor, trucker

Tyler Armstrong was sitting in the cab of a truck Sunday when news of the deal broke, but told Radio-Canada he had not heard anything about it.

"People know we're here to stay, so they know we're not going to leave. One hundred per cent, I will not move. I will not leave until we get what we want, and I think a lot of the public know that."

Somerset Coun. Catherine McKenney, who represents the Centretown neighbourhood now overrun with protesters, said moving the vehicles off residential streets would be a positive.

"I always say I measure success in whether people can go to the grocery store, people can take the LRT safely, people can live on their streets without diesel fumes, toxic fumes," said McKenney.

- [Protesters' idling trucks are making downtown Ottawa's air quality worse](#)

"That is the measure of success, so however that comes about, we have to wait and see. I want to see exactly what happens and how it happens."

With files from Frédéric Pepin

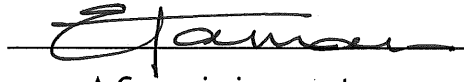
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This is Exhibit "B" referred to
in the Affidavit of ZEXI LI,
affirmed before me this 1st day of September,
2023.

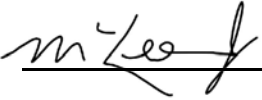

A Commissioner, etc.

section 101 of the *Courts of Justice Act*, Rule 40.01 of the *Rules of Civil Procedure*, and section 12 of the *Class Proceedings Act*.

2. **THIS COURT ORDERS** that any persons having notice of this Order are hereby restrained and enjoined from using air horns or train horns, other than those on a motor vehicle of a municipal fire department, in the geographic location anywhere in the City of Ottawa, in the vicinity of downtown Ottawa, being any streets north of Highway 417, otherwise known as the Queensway, for 10 days from the date of this Order.
3. **THIS COURT ORDERS** that the Defendants Barber, Dichter and Lich forthwith direct that they communicate this Order through their social media and other channels to all persons they know who are or who have been participating in the Freedom Convoy Protest in Ottawa, Ontario, from January 28, 2022, to the present day;
4. **THIS COURT ORDERS** that any police officer with the Ottawa Police Service, and/or the appropriate police authority in the jurisdiction in question (the "Police"), shall have authorization to arrest and remove any person who has knowledge of this Order and who the Police have reasonable and probable grounds to believe is contravening or has contravened any provision of this Order.
5. **THIS COURT ORDERS** that the Police shall retain discretion:
 - a. as to the timing and manner of enforcement of this Order, and specifically retain discretion as to the timing and manner of arrest and removal of any person pursuant to this Order; and
 - b. to detain and release any person without arrest who the Police have reasonable and probable grounds to believe is contravening, or has contravened, any provisions of this Order, upon that person agreeing in writing to abide by this Order.
6. **THIS COURT ORDERS** that any peace officer and any member of the Police who arrests or arrests and removes any person pursuant to this Order shall have authorization to release that person from arrest upon that person agreeing in writing to obey this Order;
7. **THIS COURT ORDERS** that, provided the terms of this Order are complied with, the Defendants and other persons remain at liberty to engage in a peaceful, lawful and safe protest.
8. **NOTICE OF THIS ORDER** may be given by: posting copies of this Order in or around downtown Ottawa; reading the Order to any person, including but not limited to reading the Order over an amplification system publishing this Order

online, including on social media accounts associated with the Defendants, and by distributing copies of this Order to media including CBC, Radio-Canada, CTV, Global News and all daily newspapers in the Ottawa-Gatineau area.

9. **THIS ORDER** shall not apply to persons acting in the course of or in the exercise of a statutory duty, power or authority.
10. **THIS COURT ORDERS** that the costs of this motion shall be in the cause.
11. **THIS COURT ORDERS** that the parties shall appear before the Court in Ottawa by videoconference on February 16, 2022 at 10:00am for the hearing of a motion to continue this Order.



Date of Issuance: 02/07/2022

This is **Exhibit "C"** referred to
in the Affidavit of **ZEXI LI**,
affirmed before me this 1st day of September,
2023.

A handwritten signature in black ink, appearing to read "Staman", written over a horizontal line.

A Commissioner, etc.

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

CITATION: Li v. Barber et al. 2022, ONSC 1037

SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI

Plaintiff

-and-

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and
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 and JOHN DOE 60

Defendants

P R O C E E D I N G S

REMOTELY BEFORE THE HONOURABLE JUSTICE H. MCLEAN
on February 7, 2022, for an OTTAWA proceeding

APPEARANCES:

IDENTIFIED AS ANNOTATED - PARTICIPATED VIA REMOTELY FROM UNKNOWN LOCATIONS

P. Champ, C. Johnson

Counsel for Zexi Li

K. Wilson

Counsel for Chris Barber

K. Wilson

Counsel for Benjamin Dichter

K. Wilson

Counsel for Tamara Lich

MONDAY, FEBRUARY 7, 2022

CITATION: Li v. Barber et al. 2022, ONSC 1037

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PLEASE NOTE: PROCEEDINGS WERE RECORDED REMOTELY. PORTIONS OF THIS TRANSCRIPT CONTAIN A HIGHER THAN USUAL NUMBER OF [INDISCERNIBLE] NOTATIONS DUE TO TECHNICAL FAILURE AND POOR QUALITY OF THE AUDIO, AND SOME WORDS MAY NOT HAVE BEEN CAPTURED ON AUDIO DUE TO INTERMITTENT FADING AND/OR MUFFLING OF MICROPHONE.

15
SOME PARTIES ARE PRESENT IN COURT WHILE OTHERS ARE PARTICIPATING IN THIS HEARING REMOTELY FROM DIFFERENT LOCATIONS. AT TIMES AUDIO RECORDING DOES NOT MEET REQUIRED STANDARD AS DULY NOTED HEREIN.

20
... WHEREUPON MATTER COMMENCES (1:08 p.m.)

25
CLERK REGISTRAR: Oye, oye, oye, anyone having business before the Queen's justice Superior Court of Justice attend now and you shall be heard. Long live the Queen.

30
THE COURT: Thank you. Before we can commence, I'd just like to say a few things first, which really doesn't have much of a bearing on this. I'd like to thank the staff that were here with me on Saturday. Of course, it's always a nice thing when you get called into work when you don't expect to, and we really appreciate your help because you were really helpful.

5

I'd also like to thank counsel in the criminal matter that I'm engaged in, Ms. Tansey for the Crown, Mr. Lewandowski and Mr. Krongold, for arranging it so I could continue to hear this matter. They're very - they've been very helpful in that regard.

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The other matter I'd like to address is, as I guess you're aware better than I am, because I really - I only heard about it - really heard about it after the - the hearing on Saturday at close, that a racial slur was put in the chat line.

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Now, obviously, if that were done in open court I would either have the participant who did that removed, or arrested, or both, depending on what the nature of it is. With regard to this particular matter, I - and then I would deal with the individual matter in contempt or otherwise after the hearing had been completed because obviously, those kinds of outbursts are generally designed to prevent the court from adjudicating on certain matters that are before it, or at least slowing down that adjudication.

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So, what I'm suggesting at this point is, because counsel have read the epithet that was in the ZOOM, I would ask that both counsel communicate that to the Crown Attorney's office so that perhaps criminal proceedings or contempt

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proceedings can be brought if that individual can be identified. Please do that. That's - as I say, I can't deal with it personally because it's not a situation where I can deal with it. But I have to deal with it because that's what is necessary to make sure the procee - the proceedings of the court are not interfered with. All right. Thank you.

10

MR. WILSON: Your Honour, I - I need to clarify. I have not seen it.

THE COURT: Well, you can - okay, sorry. I didn't want to interrupt.

15

MR. WILSON: If I might, sir. And I've confirmed all of this in writing with my friend. That, I was instructed by my clients for Saturday to share the link only with my legal term and that's what occurred.

20

THE COURT: I'm not - I'm not - what I'm - I'm not trying to put counsel in any difficulty. I'm simply put - and the - the limit of my request is simply to inform the Crown Attorney's office as to what you're aware of, and then they can take over from there. I'm not asking you to be a witness to it or anything else. It's just, I don't know how to deal with this because we're not in open court. And as I said before, if it were in open court, I would deal with it personally without any problems, but I can't do that because just - and I have no ability to investigate it myself. And so, therefore, what I'm simply asking - you can talk to your friend, Mr. Wilson, and - to Mr. Champ, you can talk together how you handle this. I just

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want - it should be reported to the Crown Attorney's office so they can take appropriate measures that they deem. Whether by means of a contempt application or by means of a criminal proceeding. The difficulty is, of course, whether the person can be identified, and I have no way of knowing that, perhaps neither do you. So, that's why my suggestion is that we allow them to do their investigation if they deem that appropriate.

10

We'll proceed on with this.

MR. WILSON: Thank you.

THE COURT: All right. Thank you.

MR. CHAMP: Thank you very much, Your Honour.

15

THE COURT: All right. So....

CLERK REGISTRAR: *[Indiscernible...speaker away from microphone]* the chat ability has been disabled.

THE COURT: Yes, I understand that.

20

CLERK REGISTRAR: Okay.

THE COURT: And I'm very pleased with that too.

25

Anyway, let's go on now. I don't know - I've got a great deal of materials. I guess the - I now have a factum from you both - or facta from you both. I have motion records from you both and the various affidavits that are appended there to, or part of it. I don't know if we have to go into any other detail with respect to what the record is that I'm - have to deal with.

30

MR. CHAMP: If I may, Your Honour, I - and I appreciate the Court and the court registry

working so hard on this matter over the last few days, and materials coming in at all times. Very - very appreciate and - of the court's efforts on that.

5

I thought, if I may, I could just sort of summarize what I understand the record to be before, given the various....

10

THE COURT: Well, you can both do that. You could both do that and highlight it. And then I'll - if I'm having a problem recognizing it, I'll go and look for it, I guess. Or you can help me with it. All right.

15

MR. CHAMP: Well, may - maybe I'll summarize to - it to you, Your Honour, at least my understanding and my friend then can advise if - if he has the same understanding.

20

From the moving party's perspective, the plaintiff, there's a moving party's motion record that was filed on Friday evening.

THE COURT: Yes.

25

MR. CHAMP: And then there's a supplementary motion record, which we filed last night.

We've asked the....

THE COURT: That's right. I have that too.

30

MR. CHAMP: Yeah, yeah. There was a supplementary book of authorities that we filed on Saturday, but you no longer need to use that. We've incorporated all of those authorities into the supplementary motion record.

5

THE COURT: That's fine. Thank you.

MR. CHAMP: And just to confirm with the Court, and that supplementary motion record, it's predominantly just authorities. We added some authorities to address some of the questions that the Court had on - on...

THE COURT: Right.

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MR. CHAMP: ...Saturday, Your Honour. And beyond that, we just - we have a version of a draft order, which we had gotten input from - from the Ottawa Police. And then, we also just put in, as I believe the Court may be aware, but just to confirm, that the City of Ottawa major declared a state of emergency under the - under the *Emergencies Management And Civil Protections Act* yesterday. So, just thought the court...

15

THE COURT: Yeah.

20

MR. CHAMP: ...should be aware of that. But aside from that, our evidence is what we had filed on Friday evening.

THE COURT: Okay, that's fine.

MR. CHAMP: Our motion - and our factum is included in - in Volume 1.

25

THE COURT: That's right. No, I've - I've - I've separate that out and I - I appreciate how hard the administrative staff have been working because I've had to do some of it myself. So, I - I'm grateful for what they've done.

MR. CHAMP: Yeah.

30

THE COURT: Mr. Wilson....

MR. CHAMP: For sure.

THE COURT: Yes.

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MR. CHAMP: And from Mr. Wilson's side, I understand that the - the record is, they've filed a motion record last night, which included five affidavits. And they've filed now a supplementary motion record about an hour and a half ago with eight affidavits. And then they've filed a factum, the latest version of - they filed a few, but I think the latest version was at 11:50 a.m.

10

So, that's - today. So, that's - that's my understanding of their record. Two motion records for each party, plus they have a separate factum. We have our factum incorporated in our first volume.

15

THE COURT: All right. Mr. Wilson?

20

MR. WILSON: I thank my friend for that summary. I can advise the court and my friend, if they haven't received it already, we do have one further affidavit that's on its way, or already into the court, and it's from Thomas Merezano (ph).

25

THE COURT: I don't know that I - is it a stand-alone affidavit?

MR. WILSON: That's correct, sir.

30

THE COURT: Well, all right. Well let me look and see.

MR. CHAMP: Well, Your Honour, I haven't had a chance - and I'll just say at this stage, this hearing has - has commenced and I would oppose the introduction of that affidavit.

All of the moving party's evidence was served on

the respondents on Friday. We're now....

5 THE COURT: Well, let's - let's - let's go ahead with it and then we'll see where we go because I don't have it, as - as I understand it. All right. So, let's proceed and we can deal with that....

MR. WILSON: One other - one other - sorry, sir, I'm not meaning to talk over.

10 THE COURT: Okay. No, no, no. You go ahead.

MR. WILSON: There is - there was an e-mail that I received, a few minutes before the hearing started, from counsel for the Ottawa Police. I haven't had a chance to review it or read it, obviously. So, I'm not sure if that's part of the record or what the role of the Ottawa Police are in this private litigation matter. But I - I just want....

15 THE COURT: Well, do you want - do you want a few minutes to read it? I don't know - you know, I'm....

MR. WILSON: Yes, please.

20 THE COURT: All right. We'll give you a few minutes. We'll just wait. We'll give you five minutes and then. Mr. Champ?

25 MR. CHAMP: Yeah, before he goes, if I may, Your Honour, thank you. I would just address the - the issues is that the - the Ottawa Police Service legal counsel has asked for standing simply to speak to the issues of any terms of the order that would apply to the Ottawa Police Service.

30 When we were preparing the draft order for Your

Honour early on Saturday morning, the Ottawa Police Service had reached out and had some input in what they thought would be helpful...

THE COURT: So....

MR. CHAMP: ...for them to enforce. We added that language. And they've now indicated they would like standing simply to speak to that language...

THE COURT: Well....

MR. CHAMP: ...as it applies to the Ottawa Police.

THE COURT: All right.

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: We'll - we'll hear from you, Mr.

Wilson, on that. But I - I would think if they want standing for that limited portion of the debate, then why don't we wait until we see if we get to that portion of the debate.

In other words, if there is an order to be given then we can talk about getting the police in, but I don't think - if they're not gonna talk about the substantive - substantive nature of the order, I don't know that they need standing. Is that your position, Mr. Champ?

MR. CHAMP: I guess it's just at whatever stage you make that determination, Your Honour. But that's - that's fine....

THE COURT: No, no, no, but....

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Yeah, well, I'm just saying, if for example, I don't make an order, then I don't know

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that the Ottawa Police are of any moment. If I do make an order then if they want to discuss whatever, then we could consider the matter of standing. I think that's - because other - you know, it's a two stage process. The first process is whether I issue injunctive relief, and then - and then if we get there, and - and true enough, you know, true enough, the nature of the injunctive relief will govern the order. But if it's just the technicalities of enforcing the order and the terms of the order that the police wish to speak about, then they would have - I think would have a - be on firming ground to be given that opportunity.

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15

I don't know what your position is, Mr. Wilson, on that?

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MR. WILSON: I think that's a very efficient use of everyone's time, sir, and I think that's fair and reasonable. Thank you.

THE COURT: All right. All right, we'll give you five minutes, Mr. Wilson, to read their - their....

25

MR. WILSON: Perhaps, sir, would it make sense to proceed with the first part of the hearing and then....

THE COURT: Okay. All right.

30

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

THE COURT: No, I'm - I - I - I have no - you

Submissions by Mr. Champ

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know, I just want to be fair to everybody and I -
you know, I - it's very hard for me to tell you
what to do with documents I haven't seen. So, you
- yes, we'll go ahead with the hearing, then we'll
get - you'll get your - depending on how we deal
with the first part of the hearing, then we will -
you'll have your time to read the police thing and
we'll go on from there. If that's - if we do
that. All right.

Mr. Champ?

MR. CHAMP: Thank you, Your Honour.

SUBMISSIONS BY MR. CHAMP:

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So, our submissions today, Your Honour, is with
respect to a motion for an injunction pursuant to
Section 101 of the *Court's of Justice Act*, and
Rule 39.01(4) of the rules of civil - pardon me,
40.01(4) of the *Rules of Civil Procedure*.

25
The nature of the order sought, Your Honour, is an
injunction enjoining not only the defendants, but
any unnamed person who has notice of the order,
from blasting air horns or rail horns in the
community of Ottawa for 60 days, unless it is for
legitimate emergency purpose.

30
THE COURT: Right, but - okay, that - the point
is, we've got a whole plethora of people who
aren't served, right?

MR. CHAMP: Yes, Your Honour, but if I may....

THE COURT: So....

MR. CHAMP: If - I - I'll address those issues in

Submissions by Mr. Champ

my - in my submissions, if - if I may.

THE COURT: Right, but I'm - I'm just saying that, on that, and this is what I want some clarity, doesn't it have to come back to it in 10 days?

MR. CHAMP: It's within 10 days under sub - sorry, under - sorry under submission - 40.02(1), if it's *ex parte*, but Mr. Wilson is now participating....

THE COURT: Well, yes, but it's *ex parte* - it's sort of *ex parte*, isn't it? Yeah, it's sort of *ex parte*...

MR. CHAMP: I guess....

THE COURT: ...so, I don't see how I can give you your 60 days because a lot of these people aren't served. I have - and you want - you know, and let's be blunt about it. You want a globular injunction that enjoins everybody in a particular area from doing certain things, right?

MR. CHAMP: This is so.

THE COURT: Yeah. Well, I can't - I don't think I can give it to you for 60 days when they have no notice of it, et cetera, et cetera, et cetera. So, it's an *ex parte* injunction for the main part, right?

MR. CHAMP: Well, I - I'm not sure if I'd agreed with that position, Your Honour. If I may, I'd proceed with my arguments and I could address that point to you in fulsome.

THE COURT: You go ahead. Okay. Go ahead.

MR. CHAMP: Thank you very much, Your Honour.

THE COURT: I'm not trying to - I'm just trying to - I'm trying to see where we're at, that's all. Okay. Go ahead.

Submissions by Mr. Champ

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MR. CHAMP: I appreciate it. I appreciate it very much, Your Honour. I appreciate hearing the Court's concerns. That assists me in....

THE COURT: Yeah, well you go ahead. Go ahead.

MR. CHAMP: It assists me in sort of shaping our arguments and points.

THE COURT: Go ahead.

10

MR. CHAMP: So, Your Honour, we have this motion before you for an injunction, we'll leave it at that, prohibiting the air horns and rail horns around Ottawa, applying to some people for some time. And we'll - we'll talk about those issues later in the motion.

15

I'll proceed by reviewing the evidence of the parties that you have before you and then I'll turn to the law, the test, the well-known test of an injunction, *RJR MacDonald*, and I'll go through the three branches of that test:...

20

THE COURT: All right.

MR. CHAMP: ...serious issue to be tried, irreparable harm, and balance of convenience...

THE COURT: Right.

25

MR. CHAMP: ...and then make a request of the nature and order that should issue.

THE COURT: All right.

30

MR. CHAMP: On the basis of the evidence, Your Honour, the evidence you have from the moving party is three affidavits: from the plaintiff, Ms. Li, from a member - another resident of Ottawa, Mr. Barr (ph), and from a doctor, Dr. Scherer an otolaryngologist or ENT specialist, who's a

Submissions by Mr. Champ

specialist in hearing damage.

5 The affidavit of Ms. Li sets out that - in
paragraph 5 of her affidavit, which is - you'll
find that material at Tab 3 of our motion record:
loud horns on trucks being deafening in her
neighbourhood. At paragraph 6, she sets out how
frequent it is, which is basically all day and all
night, including the latest that she can recall,
10 1:30 a.m. At paragraph 7, Your Honour....

THE COURT: Go ahead.

MR. CHAMP: That's fine. Paragraph 7 of her
15 affidavit, Your Honour, sets out that she has
measured the level of sound in her apartment. So,
this isn't on the street, this is in her apartment
with the windows closed, at 84 decibels.

20 She talks at paragraph 8 about how this has been
impacting her. The 84 decibels almost non-stop,
at that point, for over a week, her nerves are
frayed, she can't sleep, she's suffering anxiety,
and even when the sound stops she's seized with
anxiety because she's unsure of when it will start
again.

25 At paragraphs 10 and 11 of her affidavit, she
talks about what it's like when she goes outside,
right outside her door, that the sound is so loud,
even when she wears sound cancelling earphones,
30 it's physically vibrating in her head.

At paragraph 12, she speaks to how she's made

Submissions by Mr. Champ

complaints to the Ottawa Police Service 14 times and they've indicated they can't assist her.

5 The next affidavit, at Tab 4 of our materials, is the Barr (ph) affidavit. This is an individual citizen from Ottawa who walked around using an app on his phone from the CDC for Occupational Health and Safety, to measure the decibel levels.

10 At paragraph 5, and 6, and 8, of his affidavit, he indicates that he has measured and has recordings of those measures of sound levels, constant sound levels, of 100 decibels at the corners of Laurier and Kent, 105 decibels at Parliament Hill and at Bank and Slater. And he testifies in those aff -
15 in those paragraphs, Your Honour, that he could only tolerate that sound, that level of sound, for a few minutes.

20 At paragraph 7, he speaks to at one point going by a truck, which then uses the rail horn - or pardon me, the train horn. The sound level spiked, which he measured at over 121 decibels. He described the sound as very painful.

25 Paragraph 9, he indicates that he can hear the blaring of those horns even when he was several blocks away.

30 The third affidavit, from the moving party, is from Dr. Scherer, as I'd indicated, an ENT, ears - ear, nose and throat specialist and

Submissions by Mr. Champ

otolaryngologist, who treats patients for hearing loss and hearing damage.

5 At paragraph 2, she points out that she's a doctor at the Ottawa Hospital, the Montfort Hospital, and CHEO, and she's an assistant professor with the Facility of Medicine at the University of Ottawa.

10 Paragraph 4, she advises that the sound of a lawnmower is between 88 to 94 decibels. And if I could, Your Honour, I'd just indicate that that's very close to decibel level that Ms. Li indicates is in her apartment with the windows closed. So, essentially, Ms. Li has a lawnmower running in her living room none stop, all day and all night.

15 Paragraph 7 and 8, the doctor sets out that prolonged exposure can cause permanent damage to the ear and can cause psychological distress.

20 At paragraph 10, she indicates that residents living in downtown Ottawa, exposed to this level of noise, may face hearing loss and tinnitus.

25 And at paragraph 12, Your Honour, which is particularly important for the irreparable harm test, she says that tinnitus can be permanent for downtown residents due to exposure of these sound levels over several days.

30 Indeed, Your Honour, when we get to trial in this matter, it may be that some of these individuals

Submissions by Mr. Champ

in downtown Ottawa have already suffered serious, permanent harm.

5 The only other evidence, if I can call it that, we just - in our record that we put in yesterday, is just confirming that the mayor of Ottawa has declared a state of emergency.

10 With respect to the responding party's affidavits, there's 13 affidavits, Your Honour. I'll just have a couple of comments on them. Largely because, Your Honour, I believe, almost the entirety of the evidence is irrelevant. It's speaking to that their having a good time and that 15 the truckers are friendly and nice, and joyful and jubilant, and so on and so forth. But in terms of the evidence that speaks to the honking, the horns, which is the subject of this litigation and this motion, what we hear is in the Bullford (ph) affidavit, or Bufford (ph) affidavit, pardon me, 20 at Tab 3 of the respondent's motion record. At paragraph 7, he speaks of the freedom convoy leadership, in his words, agreeing on a schedule of the honking between 8:00 a.m. to 8:00 p.m. And that in his - it's his understanding that they're 25 respecting those parameters.

30 Now, that evidence, Your Honour, is important because it indicates that, as part of the claim, we're pleading, or alleging, that the leaders of this freedom convoy protest are directing and encouraging, and controlling to some extent, the

Submissions by Mr. Champ

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truckers who are using this horn tactic. There's some other evidence that is contradictory to that, so I'm unsure how my friend will address that in his arguments. I'm looking forward to hearing that. But that, Your Honour, I would suggest, meets the serious - met - fills - fits the serious issue to be tried test. That that would be relevant to the tort of nuisance and individuals working collective - collectively for a common design or purpose.

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Now, beyond that, Your Honour, we have, you know, Ms. Lich, and Mr. Dichter, and Mr. Barber, all saying they don't have trucks here and they're not honking horns. You know, to that extent then, Your Honour, I - I question why they're here opposing this motion. If they're not honking horns, why are they here opposing? And I would suggest, Your Honour, that's a relevant question or issue for costs.

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And the other affidavit, Your Honour, that I'd like to speak to is the Jean Dragne (ph) affidavit. It's in the respondent's supplementary motion record at Tab 2. It's the only one that speaks to the horns. All the other ones are just, "It's a nice place and there's lots of really great people in this protest", which is fine, people can have those opinions. But at paragraph 5 of the Jean Dragne (ph) affidavit, this affiant says that "the honking was loud and fairly consistent". So, he confirms that it's an ongoing

Submissions by Mr. Champ

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blaring horn, but he suggested he could still hear conversations with people and hear speakers on stage. Well, Your Honour, in terms of the evidence from the respondent about the level of sound, there's no one that has provided evidence about the decibel levels. We've provided evidence with them on Friday, if they wanted to put in evidence about, no, we're measuring the decibels this or that, they could have put it in but they didn't. I wonder why, Your Honour. We'll I would suggest, an inference can be drawn is 'cause they did check it out and they found that our readings are accurate.

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That goes to the fact that - and if they do have that evidence, I hope they hold onto it for when this trial of action is heard showing that they're aware of the harm that they're causing and inflicting on the people of Ottawa.

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With respect to the rest of the aff - the evidence, I've already indicated much of it is irrelevant, but there's one point I would like to highlight, Your Honour. There are many references in my friend's affidavits to what people told them. So, hearsay evidence. Now, we do know under the *Rules of Civil Procedure*, Rule 39.01(4), that hearsay evidence is admissible on motions but the affiant must state the information and belief of that source. In other words, they have to state who they are hearing that information from, at a bare minimum.

Submissions by Mr. Champ

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THE COURT: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: So, when you're reviewing those affidavits in detail, Your Honour, I would submit, you'll - you'll agree with me that much of that evidence is inadmissible. We have phrases like this, "Very reliable sources tell me", "The caller told me", "Two separate truck drivers told me", "Drivers confirmed to me", "I've spoken with many truck drivers". Your Honour, that kind of evidence is not only hearsay, but it's hearsay that does not meet the exception in Rule 39.01(4), and is inadmissible.

I appreciate that my friend is Alberta counsel. He does have rights to participate and appear here, and maybe it's not as - maybe the rules of civil procedure in Alberta are different. I'm not familiar with them myself. But if he's appearing in Ontario court, I'd suggest he should be aware of them.

So, that's the evidence you have before you, Your Honour. Direct evidence. Three affidavits from the plaintiff, all directly relevant, all direct evidence. Un - unchallenged.

Turning to the law, Your Honour, the test for an injunction is whether there is a serious issue to be tried in the underlying action, whether irreparable harm be caused to the moving party if an injunction is not issued, and the balance of

Submissions by Mr. Champ

convenience as between the parties.

5 On the serious issue to be tried test, we've
provided you with a full statement of claim that
has been issued as a class action, under the *Class
Proceedings Act* of Ontario. The claim is in the
nature of private nuisance. We've provided you
with a couple of cases on private nuisance. We've
10 provided you with the - the *Berdah v. Quebec* case
at Tab 8 of our supplementary motion record, but
is all - it's referenced in our factum, which we
served on Friday night. That was a class action
by residents of Montreal based on excessive sound
that they were all experiencing.

15 And I also submitted the Moto Park case in our
materials, which is - I apologize, I'm just gonna
give you the tab for that. I can't remember it
off the top of my head right now - Tab 7 of our
20 supplementary motion record. It's a - it's a
numbered company that starts it, but it's - I call
it the Motoplex Speedway case. That had to do
with residents of a community called Lawrence
Heights and the property owner beside them turned
25 his large farm into a racetrack where they were
holding races every weekend. And the sound levels
would reach between 80 and 90 decibels at the
homes of those plaintiffs. And they brought an
action for nuisance against the moto - the
30 Motoplex Raceway track, which was successful and
they all received damages for that harm.

Submissions by Mr. Champ

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We would submit, Your Honour, based on the evidence that you've seen from Ms. Li, Mr. Barr (ph), and Dr. Scherer, clearly, a serious issue to be tried has been made out. On a strong *prima facie* case or whatever standard one wants to apply.

10

With respect to irreparable harm, Your Honour, irreparable harm is ongoing. Every hour more is inflicting pain and suffering on the people of Ottawa. And according to the evidence of Dr. Scherer, many of these Ottawa residents may be suffering, or may suffer permanent hearing damage.

15

Now, Your Honour, we haven't lead any evidence from a psychiatrist or a psychologist yet, on the psychological impacts on that - of - on the residents, but you do have the evidence of Ms. Li, of the torment, and the sleeplessness, her frayed nerves, the anxiety that she's experiencing from these ongoing horns.

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Then we get to the balance of convenience, Your Honour, and I would suggest, as with many cases, motions for an injunction, this is where it turns. What is the balance of convenience between the parties? Now, I know my friend - opposing counsel - opposing counsel for the respondents is going to say, "Look, there's - there's fundamental freedoms at issue here, Your Honour. *Charter Rights and Freedoms*. The right to protest, and assemble, and express opinions on political views."

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Submissions by Mr. Champ

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THE COURT: Well, does the *Charter* apply to this?

MR. CHAMP: Actually, Your Honour, I would submit it does. My friend is correct. It does.

THE COURT: It involves - it involves two people. It does not involve the government.

MR. CHAMP: When you issue a court order, if you issue a court order, Your Honour, then the *Charter* does apply. So, you do have to consider *Charter* values and the *Charter* if you do issue a court order. That's - that's pretty - it's - it - that's fairly well settled law.

We've - we've provided you with some more authorities, Your Honour.

THE COURT: No, that's fine.

MR. CHAMP: Yeah, we've provided you with some more authorities to assist you a bit on this issue, Your Honour. At Tab 16 of the supplementary motion record that we provided you yesterday, that's *MacMillan Bloedel Ltd v. Simpson*....

THE COURT: No, no, I'm aware of that.

MR. CHAMP: Yeah.

THE COURT: It's just generally, in a litigation between parties it doesn't apply.

MR. CHAMP: Well, Your Honour, as the Supreme Court of Canada says in *MacMillan Bloedel* at paragraph 13, that, you know, when you've got a - a conflict between the right to express public dissent on the one hand and the exercise of property rights on the other, one has....

THE COURT: Well, the property - property rights

Submissions by Mr. Champ

aren't in the *Charter*.

MR. CHAMP: That's - that's very true, Your Honour. But the court says - the Supreme Court of Canada says that the right to express opinions is relevant when we're talking about the expression of opinions.

THE COURT: Oh, no, no. I'm not - that's not my point. That - the - the right to express opinions exists outside the *Charter* too. You know, it's not - it's not just the *Charter*. Freedom of speech existed before the *Charter* and existed in common law.

MR. CHAMP: Absolutely.

THE COURT: You know, so, you know, it's - we're going the same way, but I don't know whether - anyway....

MR. CHAMP: I - I - it's of no moment to me. I'm not trying to make my friend's arguments, Your Honour....

THE COURT: No, no, I'm not making - I'm just asking you a particular point because...

MR. CHAMP: Yeah.

THE COURT: ...generally speaking, that - you know, in some of the litigation I've been involved, it's been argued it didn't apply. But anyway, there is -...

MR. CHAMP: Well, I'll be....

THE COURT: ...whether it applies or not, okay, whether it applies or not, and whether we sense it as a *Charter* issue or a common law issue, there's still a right to free speech.

MR. CHAMP: Absolutely, without question.

Submissions by Mr. Champ

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THE COURT: Okay. So - so...

MR. CHAMP: Without question.

THE COURT: ...and they overlap. So, it...

MR. CHAMP: Without question.

THE COURT: ...you know....So, it's - it's not something I can say, "Well, there's no free speech because there's no *Charter*." That's not the case. It never was the case and it won't - it isn't now because the *Charter* does not - as I understand it, and maybe there's more - there's law that I've missed - the *Charter* does not foreclose common law right between parties.

You know, in other words, if you're arrested in Canadian Tire, you still have rights against false arrest, whether the *Charter* applies or not. You just can't do certain things. That's - that's what I'm saying. What I - what I'm saying is, yes, I have to consider it, but I have to consider it whether the *Charter* applies or not. That's - that was the only point of our - my interjection.

MR. CHAMP: And I - we - we're completely on the same - on the same wavelength on that, Your Honour.

THE COURT: You know, because you see, if the court order is issued, then there's court - *Charter Rights* involved, yes, I know that, but before I get that - get to that, I have to consider them. That's all. That was the only - and how I get - how I do that is, I don't think of any great moment what label I put on it.

MR. CHAMP: I - I - I agree with you on that, Your

Submissions by Mr. Champ

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Honour.

THE COURT: All right.

MR. CHAMP: And - and....

THE COURT: Sorry - sorry - I just - just was curious, that's all. All right.

MR. CHAMP: Well, I mean, my friend will point you to whatever paragraphs of the - the decisions that he feels is relevant on that.

THE COURT: Oh, no, no, no, I know that. I'm just trying to focus what I'm supposed to do...

MR. CHAMP: Indeed.

THE COURT: ...because - because, as - as my view is, that no matter what - which way we go at this, whether it's common law rights or *Charter Rights*, or something like that, we end up at the same spot.

MR. CHAMP: Absolutely.

THE COURT: Okay.

MR. CHAMP: Agreed. Agreed.

THE COURT: Thank you.

MR. CHAMP: But at - but the point is, through, Your Honour, ultimately, is, the plaintiff fully recognizes that - that it is an important issue. Expressive rights...

THE COURT: Oh, it's a - it's a....

MR. CHAMP: ...and free expression, and free speech. And we recognize this is absolutely a big part of this case.

THE COURT: It's a balancing of the right to expression vis-à-vis the right to - quiet enjoyment is not the right word because quiet enjoyment has a special - has a special meaning

Submissions by Mr. Champ

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that really doesn't comprehend this. It's a right to, I guess, peaceable co-existence, or - or....

MR. CHAMP: I'll take to some language for some of the cases that may assist you in - in draft....

THE COURT: Oh, no, no. I - well

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

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THE COURT: Yeah, but let's get to the - we'll get to that. Once we get there - I know you want to say, "Well, let's just draft it now", but I don't think we can.

MR. CHAMP: No, no, I'm talking about the cases. I'm talking about whatever ruling that you issue, Your Honour.

15

THE COURT: No, no. I know that. I'm just saying....

MR. CHAMP: Whichever way. Whichever way it goes.

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THE COURT: yeah, I know. Okay.

MR. CHAMP: Whichever way it goes.

THE COURT: Thank you.

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MR. CHAMP: So, on - you know, and on that point we're just debating, Your Honour - or not debating - I'd say discussing, again, the Supreme Court of Canada says in *MacMillan Bloedel* at paragraph 13, that,

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In a society that prizes both the right to express dissent and the maintenance of private rights, a way to reconcile both interests must be found. One of the ways this can be done is through court orders like

Submissions by Mr. Champ

the one at issue in this case. [As Read]

THE COURT: Oh, no. I know that. Yeah.

MR. CHAMP: The other case we have is the *CNR v. Chief Plain*, on that point, on Tab 14, at paragraph 19 of that case.

At paragraph 19, the court says that,

The protestors...are exercising...Charter Rights...but...expressive rights are not absolute and are subject to reasonable limits. [As read]

So, Your Honour, what we're trying to say is, you know, the plaintiff, and actually, I think all downtown Ottawa residents understand the right to protest. They experience it all the time. Ottawa, you know, as the national capital, experiences mass demonstrations, small demonstrations, loud protests, quiet protests, small numbers, big numbers, sometimes occupying streets and street corners, and parks, and the Ottawa residents respect that. They understand the freedom of assembly, the freedom of association, and the freedom of expression. But the democratic rights of individuals to engage in those activities end when they unreasonably interfere with the rights of others, including causing harm. And that's what we're talking about here.

I'll just review some of the rest of this

Submissions by Mr. Champ

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jurisprudence by going further on those arguments first, Your Honour, but I wanted to address the point or concern that you had the other day, Your Honour, if I understood it properly, is, could you issue an arder - an order to people who aren't participating and how do you name them. And *MacMillan Bloedel* discusses that at paragraphs 26 to 31 of the judgment. So, you can - can review that...

THE COURT: Okay.

MR. CHAMP: ...Your Honour. And the court there - Supreme Court confirms that your court order can be effective even to people who are non-parties to this action. So, we've named 60 John Does, but let's say tomorrow the - the - the convoy leadership, as Mr. Bufford (ph) describes them, freedom convoy leadership, has all these truckers leave tomorrow and a whole new group of truckers come in and then they start blaring on their horns saying, "We're not covered by this injunction." Well, I mean, those kinds of facts are not unknown to the courts. And so, how the court deals with that, as the Supreme Court of Canada reviews, is they issue an order to the public at large that was binding on individuals who are even known parties. And it's binding on individuals who have notice of the order. So, that's the key. And we have - so, that's the key. Is that individuals who have notice of the order, even if they're non-parties, even if they're unnamed, persons known or unknown, if there's a court injunction issued to not blast air horns and rail horns in Ottawa

Submissions by Mr. Champ

unless you're an emergency vehicle, they're in contempt, and they're contemnors, if they're aware of the court order.

5 The court summarizes at paragraph 32, the Supreme Court in MacMillan Bloedel,

Canadian courts have for decades followed the practice of issuing orders directed at prohibiting interference with private property rights, which orders affect not only the named parties but also the general public. [As read]

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15 A couple other interesting cases we have before Your Honour, the *Hotel Georgia* case and the *Ottawa MacDonald Cartier Airport* cases, at Tabs 15 and 18, those case [sic] both involves injunctions against air horns. Air horns being used by protestors and strikers. The *Hotel Georgia* case - incidentally, Your Honour, *Hotel Georgia* case at 20 paragraph 5, is a 2019 judgment from the B.C. Supreme Court and - and Tab 15 of our materials. Paragraph 5, talks about the *Charter Right* of free expression and cites some of the Supreme Court of 25 Canada cases on that. Not that - again, I - I - I'm - I'm completely aligned with your view, Your Honour. I don't think it makes a difference whether we're talking about the common law right of free speech. As the Supreme Court of Canada, you know, confirmed in *Switzman v. Elbing* and 30 others, and from precedence in the '50s, or - or it's the *Charter*. It's - it's the same. But the

Submissions by Mr. Champ

court does have to recognize that balance. That's the issue in the balance of convenience.

THE COURT: Oh, of course it is.

MR. CHAMP: Right.

THE COURT: That's the...

MR. CHAMP: Yeah.

THE COURT: ...the - the issue is where one right stops and another right begins.

MR. CHAMP: Yeah.

THE COURT: And when there's an overlap, where the lines is drawn. That's really what we're talking about.

MR. CHAMP: That's right.

THE COURT: And that existed at common law before we even got the *Charter*.

MR. CHAMP: Indeed. Indeed, Your Honour. Fully agreed.

THE COURT: Okay.

MR. CHAMP: So, the interesting thing in *Hotel Georgia*, Your Honour, is that it's also based on the tort of nuisance because of the excessive sounds and air horns, and megaphones. That's at paragraph 6 and 7 of that judgment. The interesting there - on the evidence of that case, Your Honour, at paragraphs 9 and 10, the moving parties used phone apps to measure the decibel sound levels and that was admissible, and the court relied on that. And in paragraph 10, the sound levels were 85 decibels for much of the day. And that, the court found, was unreasonable and should be enjoined. Here, the sounds levels are much higher. Much, much higher.

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Submissions by Mr. Champ

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Paragraph 13, the court, again, in *Hotel Georgia*, then issues an injunction against any person with notice and enjoins them from using air horns, sirens, blow horns, and whistles.

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The other authority on using car - air horns, Your Honour, *Ottawa MacDonald Cartier International Airport*, 2015 judgment of the Ontario Superior Court, it's at Tab 18 of our materials, that had to do with striking taxi drivers. You'll see at paragraph 2, the moving party was looking to enjoin the use of car horns, air horns, megaphones, sirens, or other devices of a similar nature. The court there, at paragraph 8, recognizes that the - the individuals who were using those things have the right to express their opinions and in fact, are using those loud device noises to attract attention. So, it's a form of expression. We don't take issue with that. But there are other ways to express opinions and draw attention to your views without causing harm on others.

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The - I don't I - yeah, I don't think I need to go beyond, Your Honour, in terms of the law. The balance of convenience, I think, is - is quite stark and clear. It's the rights of Ms. Li and the other putative class members to not be exposed to permanent harm and to the - and to private use - pardon me, the - the - the quiet enjoyment of their own homes; the sanctity of their own homes.

Submissions by Mr. Champ

They're being interfered with these protestors.

5 And in terms of the balance of convenience for the
other side, Your Honour, this injunction isn't
moving to say these trucks must move, that they
must unsnarl traffic, they should get out of
parks, et cetera. They can still keep expressing
their opinions. This - this injunction will not
10 prohibit them from continuing to express their
opinions.

If there's other issues that the - you know, the -
the local authorities want to take issue with the
protestors, that's their - that's their issue.
15 This injunction is aimed at the horns. And in
that sense, Your Honour, I would submit that it is
carefully crafted, a narrow type of remedy....
THE COURT: All right, that's fine. No, no, I
understand that.

20 MR. CHAMP: And so, beyond that, Your Honour, I -
again, I could get into the terms of the order,
but it sounds like you want to sort of defer that
issue and....

25 THE COURT: Well, let's - let's - yeah, let's deal
with the - let's deal with the substantive issues
and then we'll deal with the adjectival ones
after, is the - if I do something, how do I do it?

MR. CHAMP: Yeah.

THE COURT: All right.

30 MR. CHAMP: Thank you. So, unless there's any
further questions of the Court...

THE COURT: No, that's fine.

Submissions by Mr. Wilson

MR. CHAMP: ...those are - that's all I have.
Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honour. Thank you,
Your Honour. It looked like I froze there for a
minute, sir.

THE COURT: Okay.

SUBMISSIONS BY MR. WILSON:

I - I would say this as I begin, and sort of to
cut to the chase, but I will go through the
tripartite test, but I - I do want to emphasize
one thing, if I could.

THE COURT: All right.

MR. WILSON: I think when we look at this - this
action and this motion, I feel as though we're
trying to fit a round peg in a square hole in that
we're trying to use - the effort before the court
is to use a private civil remedy, including a
class action, as a means of effectively achieving
municipal noise by-law and police compliance. And
I think....

THE COURT: Just on that point, but can't they do
that?

MR. WILSON: Well, I'm not sure that - well,
perhaps they can, but....

THE COURT: Because I'm remembering an old case,
and I can't even remember what it was called, but
it - basically it was, I think from the English
Court of Appeal, and it said that nobody's above
the law, and that - I think what it had to do with
is - is the issue where you had to have the - I

Submissions by Mr. Wilson

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guess it was a private prosecution. You had to have the Attorney General's consent to bring the prosecution in that level. I don't know whether it's an indictable offence over - it wouldn't be - it would be a felony over there. And the Attorney General refused to grant his consent. And I think it was the English Court of Appeal or the House of Lords said that's - that doesn't make any different". You can't withhold your consent arbitrarily. You can bring this matter to - for an enforcement because you have that right and the executive branch cannot overwhelm that right.

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So, I - you know, I don't know how far that argument takes us, because, as I said, the basic - I think the - why I remember it was that it had in it something about no person, or no thing is above the law. So, there you go. You know, I - whether - to get that argument off the ground, don't you have to do - don't you have to tell me or show me that the plaintiffs in this case are acting improperly?

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MR. WILSON: Well, not with respect to their right to sue and - and exercise their right for damages and nuisance...

THE COURT: Right.

MR. WILSON: ...but - but

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[Indiscernible...multiple speakers at the same time, unable to decipher words spoken], sir, I - I understand....

THE COURT: Oh, you go ahead. You go ahead.

MR. WILSON: Yeah, thank you.

Submissions by Mr. Wilson

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So, what - what I want to say is this, that where we start to get into the quicksand here is - and the comparison you've used with respect to private prosecutions is a good one - is when you get into the issue of - of - of enforcement and the whole problem of in persona vs in ram.

THE COURT: Right.

10

MR. WILSON: And what's unique - you know, so, the order - and I'll look at the - what the police - the - the Ottawa Police counsel has to say in her materials if we need to, but what we've seen consistently is, the idea here is not that a trucker who's blowing his horn, if this order were granted, would be found in contempt, which is normal. You know, information would come before you or one of your colleagues....

15

THE COURT: Would have to - would have to.

20

MR. WILSON: Well, but they're going way past that. That's my point. They're saying, as soon as you have notice, any police officer can search your vehicle or arrest you....

THE COURT: Okay. But I don't - I - with - with respect, I don't want to get into that. We can...

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MR. WILSON: Okay.

THE COURT: ...debate that later...

MR. WILSON: Right.

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THE COURT: ...but you see, right now, I have to look at *R.J. Reynolds* and say, okay, should I even give the order?

MR. WILSON: Right.

THE COURT: And then we can get into, if I - if I

Submissions by Mr. Wilson

say that *R.J. Reynolds* has been met and I give the order, then we can get into the debate about how the order should be fenced.

MR. WILSON: Fair enough....

THE COURT: You know, because that's just...

MR. WILSON: [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: ...you know, I don't think your friend is suggesting - and I - I - as I said, I - I'm trying to do this in little bites so that my mind can wrap itself around it. And that is, okay, should I give this order? Because that's the first thing. The first thing is whether I should give play to the protection of a public person's right, or should I say, well, here, in these circumstances, that's absuned (ph) by the right for freedom of expression. Right? That's what it's really about.

Because we can get into - as your friend has justly put it, the real issue here is not the - the first two prongs of the *R.J. Reynolds test*. The - the real issue here is the third one. You know, because we can debate it, he's got - he says there's a nuisance, you know, escaping noise is a nuisance; I don't think there's much debate there. It's not a frivolous thing because they've got some evidence that this person could be hurt by it. Irreparable harm. There's some evidence that it may be. There's some evidence that it may be, like, there's prima facie that noise of this nature can damage you. So, you got the three

Submissions by Mr. Wilson

things - the two things there.

5 The other issue though is, does her right overcome
your client's right to protest, or freedom of
expression, or however we want to call that - you
know, that particular right.

10 But I - I don't know. I don't want to - please
forgive me. I do not want to say, okay, I've
dealt with these two things, let's go onto the
third. I want to hear your argument. That's -
that's my point. But I'm just trying to get,
shall we say, a skeleton so I can hang all these
things on it.

15 MR. WILSON: Okay. Thank you, sir. And - and
also, with respect to - and I'm not going into the
order, but I'm going into the issue of whether or
not this is interim interlocutory injunction or a
- a - just an interlocutory - it's our view that -
20 that Rule 40 does apply and that this is an
interim order because the ex parte nature of it.

THE COURT: That's right.

25 MR. WILSON: Now, our three clients, Ms. Lich -
Ms. Lich does not own a truck. She doesn't have a
truck in - a semi-truck in - in - in Ottawa now.
She doesn't - she's never owned a semi-truck. The
other individual that my - my friend has
30 identified and named is - is Mr. Dichter. He does
have a truck, but he's never had his semi-truck
here. It's currently in Mississauga and he's
never had it in Ottawa. So, he's - they're both
incapable of honking horns. And Mr. Barber does

Submissions by Mr. Wilson

have a semi-truck here, but has provided an affidavit that he's never sounded his horn.

5 So, we're not - my friend is not here on behalf of all the - he can't reasonably be here on behalf of all the citizens or - or grouping of citizens other than that who he claims to represent, which is one individual.

10 So, we just don't have evidence before the court that the named parties, at least those that I represent, are even engaging in a nuisance in the first instance. And - and I think that's relevant. And I think it's relevant to the fact that there are other ways for the goals of Mr. 15 Champ and his client to be achieved outside of this particular approach, and as I will explain, I think it's fraught with danger.

20 The - the protests that have been occurring have - have been peaceful; that's the affidavit evidence before you. The - the - the residents haven't been impeded in their ability to move freely and there - the issue, we acknowledge, is really the 25 noise from - from the honking.

THE COURT: That's the only issue. That's - that's the only issue before me. That's - you know, we can - 'cause there's no - there's nothing here in any of the materials that say that there's - the right of movement has been infringed, that's - it's just the noise, that's it.

30 MR. WILSON: Yeah.

Submissions by Mr. Wilson

THE COURT: And I'm not gonna get into anything else because that's - I'm not asked to.

MR. WILSON: Fair enough, sir. Thank you.

5 Now, with respect to what's happening, the evidence before you as well, and I think Mr. Champ also made some reference to that, is that this is a large group of people who've come in from different parts of the country. Sometimes they
10 come and go. This is not one cohesive unified group. But there also is affidavit evidence before you, and former police officer Danny Bullford (ph), has sworn an - an affidavit about the efforts that some of the volunteers have made
15 to create cohesion and to - to - to work together and try to get the truckers to behave in a similar manner. You heard about how they previously had in place a - a rule or an - an informal accord amongst themselves not to sound their horns
20 between 8:00 a.m. and 8:00 p.m.

The last affidavit I filed with the court, confirms that as of this morning, that same informal group has announced, further to what they
25 heard you say on Saturday, sir, that they are immediately implementning, and requesting all the truckers not sound their horns but for at one time in the day. And rather than noon, they're - they've - they've said 5:00 p.m. for five minutes.
30 So, rather than having the horn sound throughout the day, they announced that, in conjunction with a formal request to meet with the City officials

Submissions by Mr. Wilson

5 because there's been no dialogue, as their affidavits confirms, to open up the lines of communication and try and address some of the issues, and deescalate the tensions and situation.

So, we have this request for an injunction [*indiscernible...ZOOM interference on channel, audio is distorted*] occurring in the face of that evidence.

10 THE COURT: Well, okay. Isn't there some evidence that your clients are - I don't want to use the word controlling, but they have some interests, or they have some function in the organization of the group. Or whatever.

15 MR. WILSON: Right.

THE COURT: There's some evidence of that.

MR. WILSON: I think - I think that's fair. But - but it's - it's - it's a - it's in a sense that - Tamara Lich in particular, I think because she started the Go Fund me page.

20 THE COURT: Right. Right.

MR. WILSON: Yeah, and so she sort of gets naturally - and she's been interviewed by a lot of news people.

25 THE COURT: But - I - okay. But....

MR. WILSON: So, she has moral suasion.

THE COURT: She has moral suasion and so therefore, wouldn't that be a reason that she be enjoined? Because if she is enjoined...

30 MR. WILSON: Well....

THE COURT: ...then - if she is enjoined then that might put moral suasion on, if I were to give an

Submissions by Mr. Wilson

order - if I were to give an order, on making sure that other per - people were aware of the order and that it would be fulfilled.

MR. WILSON: But she has no control - you know, off....

THE COURT: I - I didn't say she had.

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: I - I've never said that - I - I didn't say that. I said she has some function in it, let's say. Which I don't think can be denied.

MR. WILSON: Yeah, fair. Fair, sir. I think - but she has the function no greater than to the extent to which that same loose organic grouping in independent truckers has announced this morning that they are doing exactly what you had suggested might be a compromise.

THE COURT: That's - well, that's fine. That - that's fine. But what I'm simply saying is, if - if - if the *R.J. Reynolds* dictates are made out, okay, then I have to give an order of some kind. And since they have some function in it, of course, they would be named in that order, and I don't think there's anything - if they're not doing anything then, you know, so be it.

MR. WILSON: Fair enough.

THE COURT: Yeah.

MR. WILSON: And I just - I guess what I'm saying....

THE COURT: You know, I'm not - I'm not - you know, if I do give an order, I'm not - there are no sanctions against your clients per se, because

Submissions by Mr. Wilson

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there's - there's no reason to. I have no evidence that they are in fact breaching anything. You know, whether it's the *Highway Traffic Act* or anything, that's up to the police, I can't deal with that.

10

MR. WILSON: Right. And I know - I'm not going to get into the terms of the order, but if you find they're made out then we will, and then we're into the enforceability, the in ram....

THE COURT: Oh, I know.

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

15

MR. WILSON: All of those *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: But let's - let's just deal with...

MR. WILSON: Yeah.

THE COURT: ...this right now.

20

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: That's - then we can deal with it if we need to.

MR. WILSON: Thank you.

25

It's - it's our submission that based on the evidence that you have before you, sir, that there is no evidence as made out as between our clients that they're engaging in a nuisance because they don't have horns and the only - the only evidence before you is that the one person who does, hasn't sounded it.

30

Submissions by Mr. Wilson

In addition, there's no evidence before you that my clients - is even - are the source of - of the horns.

5 With respect to the - the - with respect to irreparable harm, you know, irreparable harm, the applicant must, you know - there must be detailed, concrete, real, definite, unavoidable. Vague assumptions and bald assertions are - are not
10 sufficient. The purported expert report or affidavit from the purported expert doesn't even attach a CV, does not comply with the requirements of the rules with respect to the *Court of Justice Act* for - for form 53. And - and I just don't
15 know that it's proper, sir, for you to rely on that opinion evidence given those glaring defects, and our inability, just due to the compressed timelines, to cross-examine on that, for the court to rely on that to support a conclusion of - of
20 irreparable harm.

25 Interestingly, Ms. Li alleges that she's had difficulty sleeping, but then testifies that she can fall asleep with earplugs. I note that my friend had indicated that - that it is not uncommon in the City of Ottawa, he's represented to you, sir, for there to be protests and for them to be loud and prolonged. That that is sort of a flavour and the complexion of the neighbourhood.
30 And when you're - when you're engaged in a nuisance assessment you look at the - the context in which the nuisance is occurring. A loud noise

Submissions by Mr. Wilson

in a - in a - in a quiet place is different than a loud noise in a busy place.

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With respect to the balance of convenience, this is where the *Charter* starts to come in, and as you know, the balancing of rights with respect to free speech. And the - this is not some spontaneous protest in response to a government announcement of today. This is a spontan - this is a spontaneous grassroots phenomenon that started in Canada, is now spreading around the world, in response to what we all have had to endure for over the last two years. And I think - and it's an effort to end that - that - that harm and that hardship. And I think that needs to - it's important to contextualize what - why it is that people came here. That they're - they are seeking to lift themselves and their families from what they believe are hardships that are affecting them and their families, and their communities, and their economies, with respect to the COVID restrictions and the vaccine mandate.

25
So, I - I do believe that's relevant for the balancing and the measuring of balance of convenience.

30
THE COURT: But on the other hand, if we're doing that balancing, how do I balance the fact that we have evidence here that there is harm being inflicted on another portion of society? Like how do I balance that? 'Cause I have - I have some evidence here of that.

Submissions by Mr. Wilson

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MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

I think we have more evidence that it's not. And I mean that seriously, sir. We've got extensive affidavits from Ottawa residents. I - I - you know, as counsel, we don't tell our colleagues how to....

THE COURT: No, no, I know that.

10

MR. WILSON: I - I don't know why we're faced with one applicant - or - or - you know - here - why didn't we - we have more, just a sampling.

15

But in any event, there is - the ev - there - there is more evidence before you that - that downtown Ottawa residents don't feel they're being harmed and that this is part of the democratic process. And that's the evidence before you. And to the extent that there's some substantive allegations of harm, it's based on - on - on - on a purported expert that hasn't even been presented in a way that meets the most basic of requirements to offer such kind of opinion evidence. The case is just lacking, in all due respect...

20

THE COURT: All right.

25

MR. WILSON: ...to my friend.

THE COURT: Okay.

30

MR. WILSON: So - so, those - those are our submissions that - that this is a major city, at the centre - it's a capital city. People have come from across the country on their own initiative, and they're very - they're seeking to free themselves from - from harm....

Submissions by Mr. Wilson

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THE COURT: Oh, no, they're - they - there's no debate. And your friend hasn't said anything about that. That - there's no debate that they have - they have legitimate concerns. Like, they - that's never been part of the argument, as I understand it. That's - he's never even said that. What he's simply saying is, the way it's being carried out is creating harm to his clients. And you have- and I have some evidence of that. And therefore, their protest should be restricted from create - continuing with that harm. That's it. That's all he's saying. He's not - you know, they can do other things besides use their horns. And that's - that's - that's basically where the case lies, is it not?

10

15

MR. WILSON: Yes [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

20

THE COURT: Because he's not [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] he's not saying get rid of the trucks. He's not saying, you know, you can't be on Wellington Street. It's - there's none of that. That's for somebody else to do.

25

30

He's just saying that if there's an - if I give - I enjoin them from using the horns then - you know, because I - you know, generally what, as he said, and you can help me with this point, he said the use of horns is to bring attention to the protest, right? That's the only reason. Because

Submissions by Mr. Wilson

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it's not an expression, like, honking a horn is not an expression of any great thought, that I'm aware of. Perhaps *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

10

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* and having been down there, I've been astounded at the dance beats that some of the trucks *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

15

THE COURT: Oh, no, oh, no. Well, it could be an art *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

20

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

25

THE COURT: There could be art. There could be artist merit to it, but we're not debating that.

30

What I'm simply saying is, on the fact that bringing attention to the protest, I don't think the horns give or take away from that. There is all kinds of attention for this protest. And he's not trying to stop that. That's not what he's trying to do. He's trying to stop only one part of it.

But I think anybody turns - you know, and I'm not taking judicial notice of this, but I don't think you're gonna deny it, anybody who turns on the news knows about this protest, and it's children, or brothers and sisters, that are protests,

Submissions by Mr. Wilson

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everybody knows that. So, I don't think the horn - the - the - what you're friend is saying is that the only peop - the only thing that the horns are doing at the moment to increase their visibility is to bother the people in the core of Ottawa.

MR. WILSON: The tripartite test in the Supreme Court of Canada decision, and thank you for your comments, My Lord, and your questions...

THE COURT: Okay.

10

MR. WILSON: ...and your - your probing, 'cause I know why you do it and it's - it's the beauty of our - our rule of law process to explore and probe. But the *RJR* test - and I know you don't want to get into the order, I'm not gonna get it, but it doesn't exist....

15

THE COURT: You're [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*]....

20

MR. WILSON: It doesn't exist [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

25

THE COURT: You two are bound and determined to [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] complicate my thought process.

30

MR. WILSON: Well, no, I - I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: I think the two of you would like to - I know what you're - I - I - I'm being - I - I'm being perhaps more coy than I should be. But I'm just saying, no, I know what you're saying...

Submissions by Mr. Wilson

MR. WILSON: Yeah.

THE COURT: ...I know what you - you know.

MR. WILSON: So, you can't - what I'm trying to say is that you can't - one cannot examine the tripartite test in the absence of the fact that you only use it where it will - either it will or it won't result in an order, an injunction that enjoins the issue.

THE COURT: That's right. Oh, I know.

MR. WILSON: And - and - and so, it's not examined in the absence of that. And so, we do have competing rights. But - and we have - and - and so, the rights of Mr. Champs clients are being weighed against my clients' *Charter Rights* and their common law rights of freedom of expression, their *Charter Rights* of peaceful assembly. And I just - I believe that that really mitigates and weighs in favour of - of finding that the balance of convenience test isn't met, and in part, because it's weighing the balance of convenience in the context of an order that will enjoin. And for all the reasons we've already struggled with at different points, both Saturday and today, it just gets really messy and ineffective.

[phone ringing in background] - I apologize, Your Honour. We're in a hotel room. I have no idea who is phoning.

THE COURT: Don't worry about it. I'm surprised mine hasn't rung. So, just....

MR. WILSON: Okay.

THE COURT: I understand - I understand the

Submissions by Mr. Wilson

exigencies of doing things by ZOOM.

MR. WILSON: Thank you. So - so, those are my submissions, sir...

THE COURT: All right.

MR. WILSON: ...with respect to - with respect to the application and the test, sir.

THE COURT: All right. Thank you. All right.

MR. CHAMP: Would you like a break, Your Honour, before I....

THE COURT: I don't know whether I want a - I'm trying to think of what I'm gonna do. Okay. It's - like, it would be lovely to have three weeks where I could write something, but that's not the way this thing works, and I know that. I've been doing this long enough that I know that.

So, with respect to the - excuse me.

MR. CHAMP: Your Honour, will I - will I have a right of reply? If I could, I've got....

THE COURT: Oh, yeah. Go ahead. Please, go ahead.

MR. CHAMP: Sure.

REPLY SUBMISSIONS BY MR. CHAMP:

Just a few point. My friend - I think Your Honour fully understood the issue when my - my - opposing counsel was saying that - you know, the police - this is a policing issue, and I think Your Honour was very much on point, but I can give you a reference that confirms that your - your opinion is correct. *MacMillan Bloedel* at paragraph 17 and 18, the Supreme Court of Canada confirms that even

Reply Submissions by Mr. Champ

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if it's a - because the - the respondents there we're arguing that same issue that Mr. Wilson is advancing. The Supreme Court had no - no difficulty dealing with it, saying, yeah, it may be a policing issue and a criminal issue, but private citizens have the right to assert their private rights to obtain an injunction. But anyways, that's an authority to support the - what you were expressing there, Your Honour.

10

A few other points my friend made - he said that the - his clients aren't using horns. And I guess I would just reiterate, why are they opposing this motion? I just - I - I don't understand that.

15

My friend then makes the suggestion, I don't know if it was a serious suggestion, that - that my client could wear earplugs. I'm not sure if that was serious or *[indiscernible...ZOOM interference on channel, audio is distorted]* but I find it offensive.

20

THE COURT: Well, no, just on that prior point about your friend and why they're doing it. The difficulty with that proposal is as follows: I have no idea, nor can I know, what instructions is passed between his clients and himself. I don't know. And - and you know, I can do - which is not helpful, I can do constructs in my head or thought - thought problems where it might, but that's not the point. The point is, your friend is here in good faith saying he's defending his clients and be that as it may.

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Reply Submissions by Mr. Champ

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You know, the - there's an issue between what counsel do, there's an issue as to what evidence is called. And on the - what evidence is called, I can - if no evidence is called, I can draw certain inferences. But I don't think I can draw inference from what counsel say or don't say because that's entirely in their purview and their rights. And be that as it may. Okay.

10

MR. CHAMP: On my friend's argument about the evidence of Dr. Scherer saying that this is inadmissible opinion evidence because there wasn't a Form 53 filed. Our submission is the court could overlook that technical defect given the exigency of the situation. But in any event, if the court was of the view that, you know, they should be accepting opinion evidence without the two sentence, sort of, certificate, Form 53, if you look at her affidavit, much of it is actually fact evidence as opposed to opinion evidence. At the end, I believe it's in paragraph - I might be wrong, but I believe it's 13 and 14, she gets into her opinion that - pardon me, 10 to 12.

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Paragraphs 10 to 12 of her affidavit, she - she expresses an opinion that the residents of Ottawa may be suffering permanent hearing damage based on that.

30

If absolutely necessary, Your Honour could not rely on that evidence. But her early evidence about loud sounds and decibel levels, and about the - the risks that they pose, that's fact

Reply Submissions by Mr. Champ

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evidence from a doctor in these circumstances.
And you also, obviously, fully have the evidence
of Mr. Barr (ph) and Ms. Li about the sound
levels, which are extreme.

THE COURT: Okay.

10

MR. CHAMP: The other point my friend - he started
talking about the content of the expression. I -
again, I think Your Honour was on that - the
content of the expression is not relevant here.
You know, there's - you know, these individuals,
if they want to protest and express their opinions
that's - that's perfectly fine. I don't think the
content of expression would ever really be
relevant in an analysis like this. I'm - you
know, maybe perhaps, if it was the most extreme
kinds of expression like hate speech or white
supremacy, or so forth, that might be relevant,
but that's....

15

THE COURT: That's before - it's before me.

20

MR. CHAMP: That's before you. Exactly. That's
what I'm saying. So...

THE COURT: Yeah.

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MR. CHAMP: ...it's - I don't - I don't think my
friend's arguments really have any relevance right
here.

30

And then the final argument I would like to
address of my friend, is why the applicant. Why
only one applicant? We've already put in
authorities, Your Honour, that propose class
actions can be used for a - an injunction. But I
will say this, Your Honour, my client is

Reply Submissions by Mr. Champ

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incredibly brave. I can advise you of this, Your Honour, and this may well be subject of a subsequent motion here in the next day or two, I've already advised my friend of this, but he - he didn't deem it appropriate on his side to even respond. My - my client has been subject to threats...

THE COURT: Okay, well....

10

MR. CHAMP: ...and vile abuse online. Her phone number has been put online, Your Honour, and people are calling her.

15

Now, I - I - my friend might say, well that's not evidence, well, Your Honour, I'm just putting the Court on notice because this is relevant to this court. If there is a litigant who is receiving threats because they are participating in a court proceeding, that is inherently a matter of contempt. And I think it is appropriate on my part, as an officer of the court, to inform the court of that. And I would add, Your Honour, if I may....

20

MR. WILSON: Your Honour, this is completely improper....

25

MR. CHAMP: I - I would add, Your Honour, if I may. *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*. Sir, keep interrupting, you can speak during your time, Mr. Wilson.

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THE COURT: Just - just - just speak to me. Just speak to me.

MR. WILSON: Your Honour, this is completely...

Reply Submissions by Mr. Champ

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MR. CHAMP: Your Honour - sir, sir...

MR. WILSON: ...inappropriate.

MR. CHAMP: ...Mr. - Your Honour, I'm speaking....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Okay, well....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

MR. CHAMP: I request that the court - I, please, request the court to direct Mr. Wilson to wait until I'm done.

THE COURT: Well, he's got an objection - he's got an objection.

MR. CHAMP: Okay. He hasn't even heard what I have to say.

THE COURT: Well....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

MR. CHAMP: I'm not finished my....

MR. WILSON: I have an objection based on what you've said.

THE COURT: Okay. Go ahead, Mr. Wilson.

MR. WILSON: There - there's no evidence before the court of this. It's highly inflammatory.

I've received personal threats. So, I just think this is improper and it's tainting this hearing. We've - we've...

THE COURT: Well, I'm not gonna - I'm not gonna....

MR. WILSON: ...never *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* evidence before the court.

Reply Submissions by Mr. Champ

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THE COURT: It's not - there's no evidence before me. Okay. There's - there's no evidence. And you know, Mr. Champ, yes, I can hear what you're saying and it may be relevant for another proceeding.

10

As far as the issue of one client bringing this motion, a person can bring an action for a private nuisance and ask for an injunction. That's fine. That was the point of the discussion I had, I think, on Saturday, saying isn't it enough if one person comes forward and says - says that they have a problem with the nuisance. Isn't that the case?

15

MR. CHAMP: Yes, Your Honour. The only - the only difference then, Your Honour, is if it was a private nuisance on her own, I don't know if my friend would take this, then she would have to disclose her address about where specifically she's experiencing the nuisance rather than on a classified basis. And I can presume...

20

THE COURT: No, no, I'm not - I'm not....

MR. CHAMP: ...we would then - she would then be in danger, Your Honour...

25

THE COURT: I'm not....

MR. CHAMP: ...that's the nature of what's going on right now.

30

THE COURT: No, no. A private nuisance, if a person has brought it before the court, right, whether there is a class action or not, because the class action has not been certified, we're at very early stage, I can act on that one person's

Reply Submissions by Mr. Champ

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plea to grant it, without getting any further on the basis of the fact that she has brought a potential class action. There's enough evidence. There - in the pleadings, there's enough that - notwithstanding it's a class action, that she may have been suffering from a nuisance, and let's leave it at that, shall we.

10

You under - you see where I'm going with it.

MR. CHAMP: I do, Your Honour.

THE COURT: Or my thoughts anyway.

MR. CHAMP: I do, Your Honour.

THE COURT: All right.

15

Because you get in - I don't want to get into it. This is a private nuisance. It is not a public nuisance, it's not a nuisance under the *Criminal Code*. It's not that kind of thing. That's not been alleged. And I'm not gonna get into that because there's a whole issue in law about public and private nuisances and their nature, and who can bring the proceedings and all this kind of thing. This is a private nuisance, one person, true enough, on behalf of a class, but one person has brought the application. There you go.

20

25

MR. CHAMP: Thank you, Your Honour. Thank you, Your Honour.

30

So, just then to conclude, Your Honour, two points. Just one, just reiterating costs. We would ask for costs in the substantial indemnity basis given again, that the respondents, on the

Reply Submissions by Mr. Champ

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one hand they say, we don't - we're not even honking horns yet they're vigorously opposing....

THE COURT: Well, let's go - let's find out....

MR. CHAMP: If you grant it.

THE COURT: Yes.

MR. CHAMP: Then Your Honour, I would just ask, in terms of speed. In terms of speed....

THE COURT: Well....

10

MR. CHAMP: If I may, Your Honour. If I may, my - my friend has submitted an affidavit that he's described to you, this - the one that is submitted after the hearing commenced from a Mr. Morazo (ph) saying that there's been an agreement to - they've stopped the honking and they're only going to do it once a day at 5:00 p.m. We're - we're about - we're about to - we're gonna submit an affidavit in about five minutes from our client that there....

15

THE COURT: Well, we're not gonna....

20

MR. CHAMP: Rail horns....

THE COURT: We're not having anymore affidavits. I'm gonna rule on this on the record I have. And I have not heard that five o'clock affidavit and I'm not gonna refer to it.

25

MR. CHAMP: All right, Your Honour, that's - those are all my submissions other than to say, this is a serious issue. Every hour that goes by, there's harm. Every hour that goes by at this stage, there is harm to the people of Centretown...

30

THE COURT: All right.

MR. CHAMP: ...and those are our submissions. Thank you.

Reasons for Decision

McLean, J.

5 THE COURT: Thank you. Anything further, Mr. Wilson, on behalf of that?

MR. WILSON: No. Of course, I - I - I would like to speak to costs at the appropriate time, but I think....

THE COURT: Well, we're not - we're not - we haven't got to that stage.

10 MR. WILSON: I know. I just wanted to be clear, I didn't want to [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: No, no, that's fine. That's fine.

15 R E A S O N S F O R D E C I S I O N

Transcribed *verbatim* as spoken on the record for purposes of judicial review and can be checked for accuracy by listening to the Liberty DCR audio recording
0411_CR34_20220207_093144__10_MCLEANH.dcr

20 MCLEAN, J. (Orally):

25 Well, obviously, this is a matter that has to be dealt with. It was put over from Saturday to ensure that there was a full and fair record before the court, which is necessary for an adjudication. I know that there's - because of the notoriety of this whole thing, that everybody is of an opinion, I think, out there, that this - the court does things by plebiscite. It certainly doesn't. I have an oath to follow. I have to look at the facts that are brought before the court. And whatever people think out there, that is not of great relevance to what I have to

30

Reasons for Decision

McLean, J.

decide.

5 The only issue before the court is whether an injunction should be granted in some terms with respect to the use of vehicle horns as described in the *Highway Traffic Act* for the Province of Ontario. That is how the motion is set forward. And whether, on that basis, I should grant an interim injunction.

10 With respect to the injunction, it is this Court's view that the injunction, if it's granted, will only be for 10 days. It is - because there are certainly a plethora of people that have not been served, or have not attorned (ph) to the jurisdiction of the court.

15 Now we deal with the factual basis for which the application is made. The factual basis is one particular individual, in Ottawa, has brought evidence of the effect that the constant use of air horns, or truck horns, or whatever, has upon her with that.

25 There is another individual who got an app for their cell phone and went around the centre part of Ottawa, where this protest is alive, and measured decibel levels, which is found in the affidavit. I will not go back - rehearse that because it's clear in the affidavit record, that I do not need to.

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Reasons for Decision

McLean, J.

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The third affidavit is one from a doctor who is an otolaryngologist at the University of Ottawa and has a practice. The main part of her evidence, aside from opinion of potential loss - or continuing loss (ph), was the effect that the noise of such horns would have upon various individuals and how it could - there would be effects that may be of a permanent nature. And I say maybe because it has not been tried, and of course, that's the level of the evidence before us.

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In reply, we have evidence from - there - the named individuals that Mr. Wilson has represented, quite eloquently, about how in reality one has no truck here, one never did have a truck here, and the third one had a truck but didn't use the air horn. That's their nature.

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There are other affidavits of other people who have been around the area and - and really, the import of the affidavits are that people were having a good time. There are some affidavits saying that they could, even with the air horns, they could hear a conversation. The issue on that factual basis then leads us to a consideration of where - whether an interlocutory injunction should be given.

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The test, of course, for obtaining an interlocutory injunction is articulated in the Supreme Court of Canada in *RJR-MacDonald Inc. v.*

Reasons for Decision

McLean, J.

Attorney General.

The moving party [must be satisfied] must demonstrate [that] a serious question [is - is] to be tried. [As Read]

Clearly, on these merits, the court has not much difficulty in finding that the test has been met. This is a serious issue that has to be - that should be tried on the effect of the air horns on particular people, who is responsible for that, et cetera.

The third - or the second part of the test is whether

[The moving par -] The moving party must convince the court that it will suffer irreparable harm if relief is not granted. 'Irreparable' refers to the nature of the harm rather than the magnitude [of it]. [As Read]

Here, on the basis of the evidence of the plaintiff, of the person who has measured it, and of the doctor. Now, objection was taken to the doctor that he perform as an expert witness's report was not filed. However, given the importance of this issue and the need for a determination on this most preliminary matter, the court accepts the evidence of the doctor. And therefore, it is the Court's view that irreparable - the irreparable nature of the harm has been made out.

Reasons for Decision

McLean, J.

That leaves us the third branch, which requires an assessment of the balance of inconvenience.

Clearly, what we are dealing with here is, we are dealing with the right for security of person vis-à-vis the right of expression and protest. Both these rights exist. There is no debate on that. People have a right to protest various things in various ways. That is enshrined at common law for many eons, and also in the *Charter*.

However, in the Court's view, there's really no difference between the rights given by the *Charter* and the rights that already existed in common law. Certainly, people have a right to protest things, particularly governmental things, that they don't like. And the nature of that protest is really not something that can be accurately assessed because it, in large degree, is a subjective matter within the sole interest of those people demonstrating.

However, in these particular circumstances, we have the issue of the fact of the manner of self-expression, that is the continual honking of - or using horns on vehicles, trucks in particular, which are having an effect on the people in the particular area of this protest. That is clear from the evidence of the plaintiff, it is clear from the other evidence, and it is also clear from the evidence put forward in the affidavit of Mr. Bufford (ph), who apparently is a volunteer

Reasons for Decision

McLean, J.

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security official with the group, wherein he suggests that the honking of the air horns would be restricted from 8:00 p.m. to 8:00 in the morning. Clearly, the inference that the Court draws from that is, quite frankly, that the defendants, or at least the evidence on behalf of the potential defendants, comprehends the fact that there is a deleterious nature to the use of these horns. When we consider this as a whole, we are of the opinion that the balance of - balance of inconvenience has been made out, in that the rights of the citizens for quiet, if we can use that term, and I know it's not a legal one, but a right to quiet, has been made out as the overcoming or being the overriding right here. And for those reasons, an interim injunction will be granted. All right.

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Then we get to the terms of the order. And I can tell you right now that the order will only be for 10 days because clearly the fact is that there are a myriad of people that have not been served with this, and they may have their own interests that they wish to bring to the court on the basis of the injunction being made of a permanent nature. All right.

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So, what do you want to do then about the order?
MR. CHAMP: Well, I would submit, Your Honour, that we should give an opportunity for legal

counsel for the Ottawa Police Service, who is monitoring this hearing and has been watching it, to participate and - and have some say.

5 The way we've crafted the order, it has some language about the Ottawa Police, that's - that's what the Ottawa Police had requested. And so, they - they would like an opportunity to address that, so....

10 THE COURT: Well, first of all, should we take some time for Mr. Wilson to read the letter and perhaps talk to the Ottawa Police? I don't know.

MR. CHAMP: Sure. Sure.

THE COURT: I'm in your hands.

15 MR. CHAMP: I'm - I'm fine with that. Yeah. We could probably arrange a three-way call between us or something like that.

20 THE COURT: Well that's why - why don't you do that because I don't - Mr. Wilson doesn't know, I don't think, what they're demanding.

25 And of course, the other thing, this is a civil contempt matter. So, what happens is, if somebody is found in contempt, they have to be brought before this court. And so, it's gotta be crafted in that way. It's not just as simple of arresting people. That's not what happens. The only purpose of arrest is to bring it before a judge of this court, because as I say, it's civil contempt if it's a global order. All right.

30 I'll give you 10 minutes and you - you know, you

can let me know and see what you can do. All right. Thank you.

We'll stand down for 10 minutes - or 15 minutes, I guess.

MR. WILSON: Mr. Champ, can you - can you phone number and please, don't broadcast it, because there's, I believe 800 people....

THE COURT: Yeah, I'll - we - I will absent myself and the court can put you in a breakout room where nobody else is privy to it.

MR. CHAMP: I guess the only question then, Your Honour, would be, how we get the Ottawa Police counsel. I - the court has her information. They might be able to send her a panellist invite so she can join with us.

THE COURT: Yeah, well you can - okay. What I'll do is, I'll get the registrar to put you in a breakout room. You can set up how you want to deal with the Ottawa Police...

MR. CHAMP: Yeah.

THE COURT: ...counsel, et cetera, et cetera. And that will be private so you will not be subject to me or anybody else. All right?

MR. CHAMP: Okay. I'd ask the court - oh, sorry, I apologize.

THE COURT: No, no, no, no, you go ahead. I'm just simply - I can - I - I'll just stop my....

MR. CHAMP: No, I can manage that. I was just gonna request, for putting in another room, I'd just ask my co-counsel, Christine Johnson, to join me.

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THE COURT: Okay. Well, you - you can deal with that. I'll just absent myself. You can go - you can go wherever you want.

MR. WILSON: Thank you, sir.

CLERK REGISTRAR: Mr. Champ.

MR. CHAMP: Yes.

CLERK REGISTRAR: Is it Champ or Champ?

MR. CHAMP: Yes.

CLERK REGISTRAR: If you know the e-mail....

R E C E S S (2:36 p.m.)

U P O N R E S U M I N G (3:22 p.m.)

MR. CHAMP: Your Honour, I apologize, I believe Mr. Wilson is just gonna be sent - we've sent a draft version of the order that the Ottawa Police Service and the plaintiff has agreed to. Mr. Wilson has some comments on it. I think the - I think the plan is he's going to send us a version, and the Court a version with track changes. And I apologize, we had a variety of technical difficulties all the way around on just about every technological level between all three of us, but we've been working as hard as we can to assist the Court.

MS. STEWART: And Your Honour, it is Vanessa Stewart for the Ottawa Police Service. I just wanted to clarify, the Ottawa Police Service is consenting. There are terms with respect to police enforcement, and that is what I'm speaking to here today, the enforcement clause. And we are

consenting to the enforcement clause as outlined
in the draft order submitted by Mr. Champ to the
Court.

5 THE COURT: I think I'm getting Mr. Champ's order.
I'll just see if I can print it so I've got
something.

... PAUSE

10 Well, I have yours and just - Mr. Champ, just
before we go on to - I think it has to come back
to a fixed date.

MR. CHAMP: Yeah, I - I agree with you, Your
Honour. That's fine.

15 THE COURT: So, it'll have to come back to the
court.

MR. CHAMP: On the 17th?

20 THE COURT: I - I presume - well, there's a whole
issue about that, which I don't particularly want
to get into, as to whether the order self-
destructs on the 17th. So, we'd better come back
on the 16th.

MR. CHAMP: Okay, thank you.

25 THE COURT: And at ten o'clock in the morning.
And I presume it comes back before me.

All right. Now, I just wonder if I've got your
comments, Mr. Wilson. Let's see.

30 MR. WILSON: It was - Mr. Champ, did you receive
that e-mail that I sent to - that we were all
using? The distribution list?

MR. CHAMP: Yes, I have it, Mr. Wilson. I have

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your comments. So, you want - as I understand your comments there, Mr. Wilson, you want it to take affect tomorrow at noon, is that right?

MR. WILSON: Yeah, I'll wait until perhaps....

MR. CHAMP: So, one - one more night of partying, that's the - that's the view - the position of the respondents?

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MR. WILSON: I want to make sure that His Honour has the benefit of - of having the track changes version to make this - his decision making efficient.

THE COURT: Okay, just - I'll just see what I've got. I'm getting as many e-mails as - I guess Mr. Champ is the winner, are you?

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... PAUSE

I'm getting so many copies of the order, I don't know.

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MR. CHAMP: I know. I - yeah.

CLERK REGISTRAR: The last one with Mr. Wilson's changes came in at 3:26, Your Honour, from Ms. McKinley (ph), and it's addressed to
[indiscernible...ZOOM interference on channel, audio is distorted].

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MR. CHAMP: I apologize, Your Honour, we're doing our best to work under short timelines.

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THE COURT: No, no, I - I know. I'm not - well, Mr. - are - is your order - just so I've got the - is your order simply that I issue the order for the interlocutory injunction that takes place at 12 on - on - that's the one you're....

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MR. CHAMP: Yeah, that's his - that's his, Your Honour. You got it. They want it to start at noon tomorrow.

THE COURT: Okay, well, I'll print it. And just give me a second, and so, I'll have the two of them.

MR. CHAMP: I think I understand the differences that they want.

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... PAUSE

CLERK REGISTRAR: And Mr. Champ, just so you know, I don't see Ms. Johnson anywhere to let her in.

MR. CHAMP: Oh, okay. I'll - I'll text her.
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Thank you, Sir.

... PAUSE

MR. CHAMP: Your Honour, I think I understand the changes my friend is seeking now. I could probably summarize them for you, or he might - maybe - perhaps you want Mr. Wilson to address the - the different language that he wishes.
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THE COURT: All right. Well, perhaps Mr. Wilson can speak for himself.
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MR. WILSON: The first concern, sir, that we're seeking to address is adding language to allow word to get out and people to know. We don't want to, obviously, have a situation where people don't know the law and then be told they're in breach of the law. So, we're proposing that the order would become effective tomorrow at noon.
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And then I can move to the next change, if you'd like, unless you have - want to stop here.

THE COURT: Well, obviously, if they don't have notice, they're not in contempt.

MR. WILSON: Okay.

THE COURT: So, it's - the onus is on Mr. Champ to make sure they have notice, or the police, before they can enforce it. 'Cause the - so that, you know, the starting date, I don't think - the main issue is, first of all, and you can both help me with that point is, how do we get notice to them?

MR. CHAMP: Well - I'm sorry. I'm sorry, Your Honour.

THE COURT: Okay, well, you know - help me with that point. Because there's no application for substituted service, right? So, I have to do something. I have to use my discretion as to giving them notice because of course, contempt is a very, very serious matter. And it's not a - I suppose contempt is really, and you can both help me with it, that - it's as serious as any indictable offence because the penalty is in the court's discretion.

MR. CHAMP: Yes.

THE COURT: You know, and so, that's - that's my concern. Is, we've got to make sure, whatever we do, that notice is given and *[indiscernible...ZOOM interference on channel, audio is distorted]* at this time, no matter, I - I think the date, Mr. Wilson, with respect, it may be fictitious because I don't think that's gonna help anybody. Because

first of all....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

5 THE COURT: First of all, we have to do is, how are we gonna get the word out there? Is it gonna be in the press? Is it gonna be on, you know, social media? What do you - you know, I....

10 MR. CHAMP: What we've proposed, Your Honour, is a few - a few ways. One is we've requested that the named respondents who are parties here, Ms. Lich, and Ms. *[sic]* Dichter, and Mr. Barber, that they communicate the order out through their social media and e-mail channels to those persons who they know...

15 THE COURT: Well....

MR. CHAMP: ...who have been associated with the protest or are currently associated with the protest.

20 Then we also have a provision that - we had proposed that notice of this order may be given by posting copies of this order in or around downtown Ottawa. By reading the order to any person, including but not limited to reading the order over an amplification system, and/or by publishing this order online, including on social media accounts associated with the defendants.

25 THE COURT: Yeah, but you see, the - the - the concern I have with that is, the - I can see the other parts of it, but getting them to the - the defendants to publish it presumes they have more of a connection with the thing than maybe has been

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proved. And then you get into this other business of, if somebody says they didn't - they should have got it through them, are they in contempt?
MR. CHAMP: I wouldn't - I wouldn't say so, Your Honour. I mean, if we find out somewhere later down the road through discovery...

THE COURT: No, no, I....

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MR. CHAMP: ...otherwise that Mr. Barber and Ms. Lich did have a big e-mail list of people and they didn't communicate the order, well, make no mistake, we will look for some kind of....

THE COURT: Well, I think what we would simply do is, that - it'd be suggested to those persons that they communicate.

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MR. CHAMP: Your Honour, I - I would - with - with great respect, I would forcibly request that this court direct and order these respondents. They showed today. They said, "We don't honk", but they showed up today to defend it. And we also have evidence before the court from Mr. Bufford (ph) that there is a convoy leadership team. And I do not think it's unreasonable just - and how difficult is it for these individuals just to send out....

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THE COURT: Well, okay. We'll do that.

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MR. CHAMP: ...the order to those individuals to whom they know - they're communicating to them somehow. The scene (ph) - convoy leadership team is communicating to them somehow, and Mr. Bufford (ph) isn't a party to this, so you can't make an order to him - for notice.

THE COURT: No, no. I can't do that.

5 MR. CHAMP: But you can't for him. But for Ms. Dichter [sic] and Mr. Barber, and Ms. Lich, they are parties. And I do not think it's a - it's unreasonable to ask them to - to publish that order through their social media channel.

10 THE COURT: Okay. Well - well, they can publish it through their social media channels. That's fine. That's neutral. But I just want to make sure that that is - see the problem....

15 MR. CHAMP: And then....

20 THE COURT: The problem you've got is this, what's their social media channel? I don't have an idea. Okay. So....

25 MR. CHAMP: Your - Your Honour, with all due respect to my friend, if you look at how he's crafted this, he's looking for every way to create means for people to, you know, come up with plausible arguments to evade the order that they can't [indiscernible...ZOOM interference on channel, audio is distorted]. He's insisting that we have a process server go around to every individual truck. I mean, I won't even get into the safety issues of that, but in any event, I don't think it's unreasonable, with all due respect, to ask that they send it out through their social media channels, whatever - however, they may - however they maybe described.

30 Social media channels is fine. If they say - how about this, we could say, any social media channels that permit the user to send out images. Like Mr. Barber, I know, for example, has a

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twitter account. It's called "Honk" something or other, so I guess he understands honking and - and that. And so, if Mr. Barber's got a social - social - any social media account where he can publish a document. I don't think that's too unreasonable, Your Honour.

THE COURT: All right. Well, that's - that's *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

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MR. WILSON: My Lord?

THE COURT: Yes?

MR. WILSON: My co-counsel has just brought to my attention that, in fact, the tech companies have been blocking some of my client's social media and taking their Facebooks down and so on. So, this is a - this is murky water, sir.

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THE COURT: Well, what - how we can deal with that is any social media that is effective for them. If it's blocked, they can't do. It's as simple as that.

MR. WILSON: Maybe it would cause the tech companies to put their social media back active again.

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THE COURT: I'm not making that order. I can't. They're not a party to this.

MR. WILSON: Nor am I asking, sir.

THE COURT: No, no, I know you're not. Anyway. Okay. So, that's that part of it.

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What about....

MR. CHAMP: And Your Honour, I - I apologize, Your Honour. Just on the other bit about just making

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it general, those - that's the terms in those other draft orders that we provided to you that are - not - not draft orders, orders that were issued by the court, at Tabs 19 and 20 of our supplementary motion record. That - that's how the - the notice provisions were handled. These are common notice provisions, Your Honour.

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If you look at some of the other jurispru - the - the case law that we put to you, some of them have the terms of the order at the end, in terms of notice, and it's similar. And then we've given you two orders that other courts have issued. So, in terms of - like just making them - I apologize, I'm just gonna go back to the language that we used here. We drew it precisely from those court orders saying....

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MR. WILSON: Your Honour [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

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MR. CHAMP: ...notice of this order may be given by: posting copies of this order in or around - and then it's - we say downtown Ottawa, but in the other case it was a location - by reading the order to any person, including but not limited to reading the order over an amplification system and/or by publishing this order online, including on social media - well, the social media accounts is one that we - we added, but everything else up to that is - is language that we've drawn from other court orders issued by courts.

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MR. WILSON: Your Honour, I can assist. My

clients, I believe, are reasonable people and if they can assist the court in
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

5 THE COURT: That's fine. That's fine.

MR. WILSON: ...word out, we don't have a problem. As long as there's not an adverse consequence if they get blocked.

10 THE COURT: Well, there won't be. There won't be. Well, if - if they're blocked, they can't. It's a...

MR. WILSON: Yeah, I just want to
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

15 THE COURT: ...new thing that's intervened.

MR. WILSON: Yeah, they'd use reasonable efforts, sir.

20 THE COURT: All right. So, okay. That's that part of it.

MR. WILSON: The earlier paragraph, sir, is about the geographic area. I'm just trying to make this precise as possible given - because of the seriousness of this. And - and it being an injunction against - almost in the form of in ram, that the greater precision that can be brought, means greater certainty and equity.

25 THE COURT: Well, what's - what's your view on that *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

30 MR. WILSON: The track changes - we've - in the track changes document, we're saying instead of all of Ottawa we're saying in the geographic area

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described - and this is in the document I've provided. I realize you may not have it in front of you. In the geographic area described as east of Bronson Ave, north of Gloucester Street, west of Queen Elizabeth Drive, and south of TransCanada Trail. And then we have the duration.

THE COURT: What about that, Mr. Champ?

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MR. CHAMP: The - the difficulty with that, Your Honour, is that these trucks have been in different parts of Ottawa. Some have been out at Coventry Road and so forth. And I'll add this, Your Honour, the way we framed that is, we drew the language from Section 74 of the *Highway Traffic Act*. That's - it's - it's - it's practically the same as the language of the *Highway Traffic Act*. So, it's *prima facie* an offence under the *Highway Traffic Act* to be using an air horn unreasonably...

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THE COURT: Oh, I know that.

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MR. CHAMP: or unnecessarily. And then there's the exception, obviously, for....

THE COURT: Yeah, but you, I think, in some of your documents, and maybe I've forgotten, you ask for an area to be enjoined.

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MR. CHAMP: This - in our original draft...

THE COURT: And so, that will be....

MR. CHAMP: ...in our notice of motion.

THE COURT: And that'll be the area of the injunction. Okay.

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MR. CHAMP: So, the language that Mr. Wilson has put forward?

THE COURT: Well, no, I don't know. I can't - I -

like....

MR. CHAMP: So, I'll agree with the - the language Mr. Wilson has.... The only - Your Honour, this a little bit like - so, he - we're abandoning the people of Byward Market, we're abandoning the people of Lowertown...

THE COURT: No, well, I don't....

THE COURT: ...abandoning the people of Sandy Hill.

THE COURT: No, I don't know...

MR. CHAMP: Abandoning the people near Coventry and - and the Jet Form Ball Park.

THE COURT: ...what you.... Mr. Champ, you, in your original document, had a boundary, right, whatever that was. And I can't recall because my mind doesn't....the area of the injunction will be whatever you ask for in your originating document, okay.

MR. CHAMP: I'll have to take a look what we said in our notice of motion. Your Honour, I - Your Honour, I'll be back - with - with the greatest of respect, Your Honour, if these trucks move onto Queen Elizabeth Driveway and start blowing their horns there, if they move into Lowertown and Byward Market, we will be back before you...

THE COURT: That's fine. That's fine.

MR. CHAMP: ...within a day.

THE COURT: That's fine. But I'm saying....

MR. CHAMP: Well, not fine for those residents. With the greatest of respect, Your Honour.

THE COURT: I'm not....

MR. CHAMP: Not fine for those residents.

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THE COURT: I am not saying that. I am saying, you requested a particular geographic area and that is going to be the area of the injunction, okay. It's what you asked for and that's what you'll get.

But the City of Ottawa is basically, unenforceable.

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MR. CHAMP: It is - it's not. With great respect, Your Honour, it's not unenforceable.

THE COURT: Well, I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

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MR. CHAMP: The geographic boundaries of the Municipality of Ottawa are well known.

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THE COURT: Well, that's fine. I have decided it will be whatever you asked for in your originating notice of motion, and that's [*indiscernible...ZOOM interference on channel, audio is distorted*] to the rest of it. Okay.

Let's go on to something else.

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MR. WILSON: My Lord, what we've proposed is that, given that we're talking about civil contempt here, in paragraph 4, we've proposed that it say that the court orders that the applicant shall be permitted to bring an application for contempt of court against any person with notice, who is alleged to have violated the terms, as opposed to automatically jumping to the idea of a person being arrested. Again, this is a civil enforcement - this is - this is a private remedy.

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It's unique. There's - doesn't have the same due diligence and fair process procedures that - that we have in our criminal courts, as we all know, and that's what we've proposed, sir, and - and the wording is in our revision.

THE COURT: Mr. Champ?

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MR. CHAMP: Yes, Your Honour. The - it's not only that section, but all - basically, Mr. Wilson wishes to remove all of the language referring to the Ottawa Police and any enforcement by the police. These kinds of provisions are in other civil contempt orders. The Ottawa Police has indicated that they have other orders similar to this, and that's - it's easier for them to enforce. Because it is always open to a peace officer to enforce an order of the court, at any time, whether it says it expressly or otherwise, but the Ottawa Police have requested these specific terms because it makes them easier to - to manage for themselves.

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So, it doesn't matter whether we have language in there or not saying that a peace officer can enforce, because the Ottawa Police can enforce it. And my friend then adds language, "It'll be enforced by way of an application for contempt". Well, again, you don't need that language. I can enforce a contempt motion, you know, as of right. So, we're just ask - I'll maybe defer to Ms. Stewart, but this is the request of the Ottawa Police because again, they would have the right - an obligation, I would submit, to enforce any

order of the court and they've requested these terms to make it easier for them to do so. Thank you.

5 MR. WILSON: Your Honour, if I might. My friend seems to be treating this as though he's asking you to draft the terms of a contempt order, and that's our difficulty. Is that, as we all know, 10 contempt is a very orderly process when someone is believed to, or alleged to have engaged in it, for the serious reasons that Your Honour's already identified. And we're not here to - we don't have someone in contempt. We're - we're creating a process so that the order will be consequential, and meaningful, and clear, but if someone breaches 15 it, there'll be a process where they could be found in contempt. But we're not drafting, with all due respect, at least that's my understanding, the contempt order right now.

20 THE COURT: Ms. Stewart, have you anything to say on this?

MS. STEWART: Thank you, Your Honour. I am of the position that the Ottawa Police and a police officer can enforce an order of the court.

25 What we are requesting here, in the language that has been proceeded, has been provided on consent by the moving party and the Ottawa Police Service, is really, you know, if the Ottawa Police is called upon to enforce the injunction, we are 30 providing what the Police Service believes is the most appropriate language for that purpose, as opposed to exercising the polices' discretion to

enforce a court order as a matter of course.

5 And so, ultimately, if Your Honour does consider to include this wording within the order, I would respectfully ask that the language provided to the court be the wording that is used.

10 THE COURT: Well, first of all, I don't think, in 5, I don't think (c) is appropriate because I'm not issuing any search warrants. It says, "To search any place, seize any item, where the police have reasonable probable grounds to believe" - well, this is open and we don't need that.

15 ... PAUSE

20 MS. STEWART: Your Honour, if I may just address that specific clause, 5(c). It would be in order to seize any item, for example, an air horn, that could be used to contravene the order of the court. I - just to....

THE COURT: Well, I know that. But I don't think we can - I'm not going to give that kind of order.

MS. STEWART: Thank you.

25 MR. WILSON: Just to confirm, My Lord, we're talking about factory-installed equipment. I don't....

30 THE COURT: No, no, I'm not - we're not getting there. The issue is whether using it. Okay. You can have it. There's nothing to prevent you from having it. You just can't use it. Because then it gets into a whole more - whole larger issue, and that is the requirement under the *Highway*

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Traffic Act to have them. And it the - and you know, and there - you get into the issue of liability exactly. If they move their vehicle for some reason, and they're enjoined from using it, and some child runs in front of the road - in front of them, they have to use it. There's no question about that.

10

MR. WILSON: In fact, sir, if it was removed, they wouldn't be able to move.

15

THE COURT: Well, that's what I mean. Like, it'd be - you know, we - I - it would cause a whole problem. And that's - the - the issue, as I said before, it's not the thing, it's the person. You know, it's not the thing, it's the person. So, I can't - I don't agree with (c).

20

I'm trying not to mess this thing up. 'Cause I've got a real - release the person. Okay, the issue becomes how - so, what? They're gonna give them a promise to appear to a date to be fixed by the court? Is that, I guess, what that means in 6(d)? 'Cause they can't fix the date of the hearing.

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MR. CHAMP: I'll - I'll defer to Ms. Stewart on that.

30

MS. STEWART: It indicates, "Require that a person appear before this court at such as may be directed by this court on date to be fixed by this court". As I understand it, we already have a next date anticipated.

THE COURT: No. No, no, no, no.

MS. STEWART: No? Okay.

THE COURT: You don't have it for that.

MS. STEWART: Okay.

THE COURT: No, this is totally different. This is just the rehearing of the injunction, whether it should be made to be [in quotes] "a permanent interim injunction", if there is such a term.

What happens is, the court has to set a date for a hearing of it. It's not - the police can't do that because the contempt is a - as I said before, the contempt is an issue for the court and the court solely. So, I fixed a date, or - no, not me, but anybody - you see, this is - that part of it has got to go to the court as a whole because a person who is arrested under this has to be brought immediately before a judge of this court to set a date because otherwise you get into a whole kinds of habeas corpus business. It's not....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Yes, go ahead.

MR. WILSON: My concern is that - and I think you're very alive to it, but just to illuminate it further, and - and assert it from our position, is that, this isn't the criminal process, and this isn't, you know - this is a civil process...

THE COURT: That's right.

MR. WILSON: ...that's being proposed.

THE COURT: That's right.

MR. WILSON: This is a civil process. Civil *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*. It's not

a criminal manner.

5 THE COURT: No, no, no, I know that. It's not -
there's no - there's no issue about that. But
what I'm saying is, the modality of getting a date
from this court is not sort of, well, you pick a
date and say, well, you get to go before the judge
and that. That doesn't work that way. You - you
- what you have to do is, you have to - I don't
10 know how you would do it because it's - it's - we
have a different - you know, you're - you're not -
as I say, next - the 16th is not gonna be a day
where I hear contempt motions or contempt
proceedings. That's not it. They're gonna be
separate from that all together.

15 MS. STEWART: No. And - and I wasn't suggesting
that that would be a date where, you know, if
police exercise their discretion, and if they
arrest someone who is breaching a - and if someone
does breach the court order that they would come
20 back on that date to - for the court to hear a
contempt motion, but I - I think it's to just
attend and present themselves in front of the
court.

25 THE COURT: Yeah, but you see, we don't have fixed
dates. We just...

MS. STEWART: *[Indiscernible...multiple speakers
at the same time, unable to decipher words
spoken]*. Sorry.

30 THE COURT: You see, generally speaking, the way
it works is, civil contempt - and you know, you
both - the other lawyers will, I think, agree with
me, is a function of a judge alone. It - it

5
doesn't have to do with - you know, generally speaking, the criminal process, you get a date from the Provincial Court, et cetera, et cetera, and you show up there to set - and they sit regular dates. Because it's a function of the Superior Court, we don't do it that way. Whether we should is another issue, but it's not for today to discuss. You have to bring the person before the court for the court to fix the date.

10
MS. STEWART: Okay.

THE COURT: And then you have to do it, but that - this is where I'm getting a little concerned about this because, you know, what do you do? You arrest somebody, you say, well, you know, we're gonna take you to the court, you find out there's no judge available.

15
MS. STEWART: Right. So, the perspective of the police is that the police were bring the - any arrested protestor before the court, after the arrest, and the court would then speak to the protestor and set the date for the civil contempt proceeding. And at that point in the, you know, usual course, an individual is released unless they, you know - they don't agree on the spot to stop prohibited activity.

20
THE COURT: Well, it's not quite simple as that.

MR. WILSON: It's not at all.

THE COURT: You know, it doesn't work that way.

25
MR. CHAMP: Your Honour, if I could just jump in....

THE COURT: Yeah, go ahead.

30
MR. CHAMP: *[Indiscernible...multiple speakers at*

the same time, unable to decipher words spoken].

THE COURT: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

5 MR. CHAMP: I'm fine with that - I'm fine with that provision being removed. I don't think it's - I mean, the police can do what they wish, as - in terms of how they enforce. I don't think they need specific language directing. And I agree - I - I - I actually tend to agree with you. I think having an order in there about the time is - is probably not - not the way to do it. It's not quite the same as a criminal offence in that sense.

10 THE COURT: Well, how do you suggest we get around that then, having suggested that?

15 MR. CHAMP: Well....

THE COURT: Because you see, the - you see, I don't want to get into a situation where we're - we're into a situation whereby the police have the power to simply arrest somebody, because that's not the - the sole reason that would occur is - is because that - they have to bring them before this court.

20 MR. CHAMP: Yeah, Your Honour, I would submit that it simply - for - so, we're talking about Section 6 here, it could - all of those provisions could be removed except for the (a), and the (a) could just be brought in saying,

25
30 This court orders that any peace officer or any member of the police, who arrests or - and arrests or removes any person pursuant to this order shall have authorization to

release that person from arrest upon that
person agreeing in writing to obey this
order. [As Read]

5 I think - I think that would achieve really, what
we're trying to get at. I'm not sure if the rest
of the language is necessary, but I'll defer...

THE COURT: Mr. Wilson?

MR. CHAMP: ...I'll defer.

10 THE COURT: That's fair.

MR. WILSON: Which section were you looking at?

THE COURT: It's 6. The - 6 is excised except for
(a).

15 Court orders that any peace officer who
arrests or - arrests or arrests and removes
any person pursuant to this order shall be
authorized to release the person from arrest
upon that person agreeing to - in writing, to
obey this order. [As Read]

20 Period. That's the end of it.

MR. WILSON: I'm fine with that, sir.

THE COURT: All right. So, that's how 6 will be
worded.

25 MR. CHAMP: The next one's about third parties,
when requested by the police - Mr. - counsel for
the responding parties is opposed to that one. We
- we don't have a big concern one way or the
other. We'll just defer...

30 THE COURT: No, that will....

MR. CHAMP: ...we defer to the Ottawa Police.

THE COURT: That will come out.

5

MR. CHAMP: Okay.

THE COURT: Of course, 8 stays in. That's fine.

MR. CHAMP: And then....

THE COURT: Notice....

10

MR. CHAMP: So, the last bit I guess, we're just down to how we get it out. We're saying, "notice of this order" - well, there's two last things. Notice of this order may be given by - and we're suggesting posting copies of this order in or around, including by, et cetera. So, that's - that's how we're suggesting.

15

And then, the last issue is about whether they can still blast their horns for five minutes. I - I think that would be a problematic one.

THE COURT: Well, the other.

20

MR. WILSON: Sir, if I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

25

THE COURT: Okay. Just with regard to the notice. Let's do this once - you know, so we can - you can have a joint order - or an order [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] form for me to sign.

30

The - I think should be added to that that a copy - true copy of the order be granted to all - to be given to all news media in the Ottawa area and request that they publish it.

MR. CHAMP: I'm fine with that, Your Honour. Who should be responsible for that?

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THE COURT: You. You are.

MR. CHAMP: Yeah, that's fine. I'm just confirming. Yeah.

THE COURT: No, no, I'm just telling you. You are. It's your order.

Ten is fine.

Eleven: costs. The costs will be in the cause. I'm not ordering costs at this point. Okay.

MR. CHAMP: As I understand it, I think they agreed to costs.

MR. WILSON: No, that's not true. No. I reserved *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Well, costs - costs are going to be in the cause. And the problem I've got is, you know, enforcing them. And I'm not getting into there. We could do that later. Okay.

MR. CHAMP: But Your Honour, it was just about the cost to the three parties who - I haven't actually made submission on costs 'cause you asked us to wait, but they - the - the three responding parties chose to respond to this - they didn't have to - even though they don't honk.

And I'd also note, Your Honour, you can take a look at those affidavits. You've already indicated that, you know, much of them have information or evidence that's - that's irrelevant. We had to work very hard to sort of, like, respond to all...

5

THE COURT: Well, that's fine.

MR. CHAMP: ...these issues by Mr. Wilson. So, I - I think it is appropriate, in this particular instance. I think normally, you know, I agree cost. But in this particular instance, I think costs are appropriate. Perhaps on partial indemnity and we can try to agree and if we don't agree, we come back to the court.

10

THE COURT: No, costs will be in the cause. Thank you.

And the matter will be adjourned to the 16th of February, next, at ten in the morning.

15

MR. CHAMP: Your Honour, I'm just confirming, we're not allowing them to blow their horns for five minutes a day, are we?

THE COURT: No.

20

MR. CHAMP: No. That's what I thought. Thank you.

THE COURT: Okay.

MR. CHAMP: Thanks very much, Your Honour.

25

THE COURT: Is there any other part of the other - and the order will be effected [*sic*] immediately - effective immediately. Because there is a - a provision in it that nothing will happen unless the people have notice of it. So, that's the - the enforcing authority has to be aware of that. Okay.

MR. CHAMP: Thank you, Your Honour.

30

MR. WILSON: Your Honour, I just - I know you've just been clear, but you've been clear without the benefit of me commenting and

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

THE COURT: Okay, that's fine. I'm sorry. All right. Sorry.

MR. WILSON: You know, we're trying to balance rights and we're all struggling with that to try and get the balance right. And you're - you - you are in the envied position of the - the great decider, and respect that.

THE COURT: Don't say that that is an envied position.

MR. WILSON: I understand, sir.

THE COURT: That is an assumption without basis. Anyway, go ahead.

MR. WILSON: That - that - you know, we're - rather than just flipping this to one party or the other, we're suggesting that the compromise, and sort of the balancing the right could be achieved if there was a specific time window, once a day. And what we had proposed was - was 5:00 p.m.

because that's a high traffic time
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]....

THE COURT: Well, that's - that's - that's - yeah, I appreciate that. But as I said when I gave you reasons earlier, the only purpose for this is to bring attention to the protest. And as I said earlier, in my view, from the material that have been filed, there is no need for that anymore. There is - the public has full comprehension of what's going on downtown Ottawa.

So, it will be effective immediately and there will be no provision for any time where honking can continue. All right?

MR. WILSON: Thank you, sir.

THE COURT: Thank you.

MR. CHAMP: And Your Honour, I apologize. Just one last thing. On media, is it okay if I specify which media to you right now? 'Cause I'm just - 'cause it's kind of generalized right now.

THE COURT: Okay.

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* media.

I'm gonna suggest like local media in the Ottawa area. So, CBC, CTV, Ottawa Citizen, Ottawa Sun, and Global news. I can't...

THE COURT: And....

MR. CHAMP: ...think of any - if you have any other suggestions, I'm happy to add them.

THE COURT: Oh, I'm just wondering if there's a way to put it in the French media.

MR. CHAMP: Yeah, that's a good idea. Yeah. So, Radio - Radio Canada.

THE COURT: Yes.

MR. CHAMP: And beyond that, I'm just - I'm not familiar with the other French media outlets in Ottawa.

THE COURT: Oh, I don't know, but it should be. Like, it's - it's a situation where everybody - every way possible, should be used to do it.

MR. CHAMP: How about every daily newspaper in the

Ottawa area?

THE COURT: Yeah, that's fine.

MR. CHAMP: That would cover the....

THE COURT: That's fine. I think. Mr. Wilson,
that's agreeable?

MR. WILSON: *[Indiscernible...multiple speakers at
the same time, unable to decipher words spoken].*

Sir, what I hear you saying is, use reasonable
efforts.

THE COURT: Yeah, use reasonable efforts. But I'm
just saying, it - it should be both in the media
that's in the French language as well as the - and
I - now, don't look at me to translate it into an
order that's even partially bilingual. So. But
anyway.

MR. CHAMP: *[Indiscernible...ZOOM interference on
channel, audio is distorted].*

THE COURT: Any - no, I'm sorry. Ms. Stewart, do
you have any comments on this? I should have
asked earlier.

MS. STEWART: Thank you. Thank you, Your Honour.
Not with respect to anything - and I - and I think
I had already spoken to this, but, you know, from
the Ottawa Police Services' position, we would
have expected that the arrested individuals go
before the Superior Court of the Province. And
unless the order allowed the arrestees to be
released upon a civil promise appear at a date set
by your court registry, which the police would
call ahead to get a date.

So, I just wanted to put that on the record. I

know Your Honour has made your decision.

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]....

5 THE COURT: Well, no, it's - it's - you see, the point of the whole thing is, they're going to - what they will have to do - and you know, the lawyers can deal with this. What they'll have to do is, if they don't sign an undertaking to comply with the order then you're gonna have to get them to the Superior Court and do that. You know. That's - that's - that's the way - contempt is not a - shall we say, a delicate instrument. You know. And so, you'll have to get them to the Superior Court. And I'm sure you can talk to the local registry and figure that out if - if it happens. But, you know, I don't know what else to say.

10
15
20 Because I can't - contempt is a matter that depends a) on the individual, depends on what the harms done, depends on all kinds of things. And so - but it's up to the judge to - you see, I don't think I'm - I'm treading on any ground. If the person says, "Okay, I'm sorry. I will obey the order. Here's my undertaking to do it", then I don't think there's any reason to bring that person before the court because the issue is whether the order's complied with. And you get into all kinds of business about notice and that kind of stuff too.

25
30 Because clearly, if the person has no notice,

5 there's no contempt. There can't be. But you know, if they agree to comply with it, then that's fine. Otherwise, I think, you know, you're gonna have to get it before the court. But you can talk to these lawyers and they can tell you about that. You know.

10 Okay. Is there anything else we need to discuss?
MR. CHAMP: I don't think so, Your Honour. The only thing would be is, once we - I think I've made notes of all the changes you've recommend - that you've....

15 THE COURT: Well, I'll - I will - I am not going any place. So, I'll just mute myself and turn my - and so, if there's any problems, then you can come back to me.

20 If not, then simply give the registrar a copy of the order agreed to, and content the form and I'll sign it. Okay?

MR. CHAMP: Thank you very much, Your Honour.

THE COURT: And the other thing - the other thing is, put "Mr." in front of Justice too.

25 MR. CHAMP: That's fine, Your Honour. And if it's okay, if we can not go through the normal of *[indiscernible...ZOOM interference on channel, audio is distorted]* content, just if I - if I e-mail the registrar with an order and copy Mr. Wilson, is that sufficient?

30 THE COURT: Well, whatever you - however you want to do...

MR. CHAMP: Okay, thank you.

5

THE COURT: ...just to make sure that both of you are agreed to the form of the order - ...

MR. CHAMP: One hundred percent. Yeah.

THE COURT: ...well, I guess the three of you.

MR. CHAMP: Yeah.

THE COURT: I don't know whether....

MR. CHAMP: That's fine.

10

THE COURT: You know. And however you want to do it, as long as it's done that way, I'm not concerned about it. But I'll be on - around line...

MR. CHAMP: Okay.

THE COURT: ...as they say. All right?

MR. CHAMP: Thank you very much, Your Honour.

15

THE COURT: Thank you. Take care.

MR. WILSON: Thank you, sir. Thank you, counsel.

R E C E S S (4:03 p.m.)

U P O N R E S U M I N G (5:06 p.m.)

20

THE COURT: All right. So, how are we?

MR. CHAMP: Your Honour, I believe we have an agreement. Or, not I believe, we have an agreement and we're - we've sent the version to the court: to the registry and to Ms. McKinley (ph). And I think that's it.

25

It would just be, we'd ask, when you do get it, Your Honour, if you could sign and return to us.

30

THE COURT: Well, I'll return it to the registrar.

MR. CHAMP: I'd ask the registrar to send a PDF or scan it to the parties at their earliest - or as

soon as they can.

THE COURT: All right. Well, if you just wait,
I'll see when I get it...

MR. CHAMP: Yeah.

THE COURT: .if I can sign it right away.

MR. CHAMP: Thank you, Your Honour.

... PAUSE

THE COURT: Haven't got it yet. We'll see.
'Cause I can sign it, I think, quickly. If I
know....

... PHONE RINGING IN BACKGROUND

MR. WILSON: *[Indiscernible...ZOOM interference on
channel, audio is distorted]* don't want to do
that, what trick we just discovered of sending it
a second time.

MR. CHAMP: Oh, my gosh. Okay.

MR. WILSON: I'm forwarding from your sent folder
'cause that seemed to speed it up for me, sir.

THE COURT: Okay.

MR. CHAMP: SJ courts - Eva (ph) - Vanessa Stewart
- okay. On it's way again.

... PAUSE

THE COURT: *[Indiscernible...ZOOM interference on
channel, audio is distorted]* Mr. Registrar, I just
don't know whether it went to Ms. McKinley. And I
don't know whether she's around. That's the....

5

MR. CHAMP: I sent it to - yeah, I can send it to the registrar as well. I used the - hold on. Mr. - Mr. Carter. No. Hold on.

THE COURT: Carlson.

MR. CHAMP: Got it.

THE COURT: I think it may have gone to Ms. McKinley, and that....

MR. CHAMP: It went to McKinley and also the registrar. But I'll get....

10

THE COURT: Yeah, sent it to the registrar just straight. And then....

MR. CHAMP: Yes. Sorry, Mr. Carlson.

THE COURT: It's all right.

15

CLERK REGISTRAR: For some reason though, it - when we're in the courtrooms it takes longer.

THE COURT: Oh, okay.

... PAUSE

20

THE COURT: The marvel's of modern technology.

MR. CHAMP: I'm so sleep deprived right now.

THE COURT: I can under - I think - I can understand that.

CLERK REGISTRAR: Okay. I now have it.

25

THE COURT: Okay. You send it to me. I'll PDF it and sign it.

MR. WILSON: And just so you're clear, sir, I have - I have reviewed it and I've worked with my friends to resolve any differences

30

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

THE COURT: *[Indiscernible...multiple speakers at*

the same time, unable to decipher words spoken].

MR. WILSON: ...cooperative and [*indiscernible*].

THE COURT: That's fine. No, I appreciate that you....Okay.

5

MR. CHAMP: Your Honour, I think - I just note, we didn't paginate it. I'm so sorry. It's two pages and it's not paginated. I'm gonna - I'll see if I can do that and resend it to Mr. Carter.

CLERK REGISTRAR: Carlson.

10

MR. CHAMP: Carlson.

THE COURT: Carlson.

MR. CHAMP: I'm so sorry. Insert page number - I'm not even....

15

Meanwhile, Your Honour, maybe you could just take a look to make sure that you don't have any concerns.

THE COURT: Yeah, well you'd better take our "draft order"

20

MR. CHAMP: Oh, yeah. Oh, yeah, you're right. Well, there we go. Good thing. Order.

THE COURT: Yeah, take out "draft order" and let's see what else.

25

MR. CHAMP: Okay, I've got the pen right now. So, if there's any other issues. I've taken out draft order and I've paginated.

THE COURT: Put - put Mr. Justice in from of McLean.

30

MR. CHAMP: Okay. I'm sorry, I know you told us that. I apologize.

THE COURT: It's all right. It's just - I guess I'm getting older.

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MR. CHAMP: Oh, it doesn't have Mr. Justice McLean.

THE COURT: We'll, maybe I've got the wrong one then. It - the one I've got is just Justice McLean, draft order. So, maybe I....

MR. CHAMP: What's the - the - so the - the document is called "Li Interim Order CV-22-" that's the one. Unless I sent the - did I - hold on - did I send the wrong one to Mr. Carlson?

THE COURT: You might have.

MR. CHAMP: No, I didn't. No, I sent him the right one.

THE COURT: Okay.

MR. CHAMP: Li - Li - let me. I'm gonna open the one I sent him just to make sure.

THE COURT: Oh, I got draft order. I'm sorry, the one I - the one that's attached to Carlson is one that - Mr. Carlson is draft order.

MR. CHAMP: Yeah. Yeah, I've got Mr. Justice McLean in the one...

THE COURT: Okay.

MR. CHAMP: ...that I sent to Mr. Carlson.

THE COURT: Okay. Well, I'm trying to find it. Li Interim Order, is that the one?

MR. CHAMP: That's it.

THE COURT: Okay. There you go. Okay, that's fine. You - you've gotta take out "draft order".

MR. CHAMP: Yeah, I've taken out "draft order". I've paginated it. And I'll just - if you want....

THE COURT: Send it again. Send it again and then sign it.

MR. CHAMP: Well, is there - is there any other
issues there, Your Honour?

5 Oh, yeah, 10:00 a.m., we put - for February the
16th, the returnable time we put at 10:00 a.m., is
that fine?

THE COURT: That's fine.

MR. CHAMP: Okay, great. I'll send it right now.

THE COURT: That's fine.

10 ... PAUSE

MR. CHAMP: [phone ringing] Paul Champ.

15 ... PAUSE

MR. CHAMP: So, is that good, Your Honour?

THE COURT: I'm trying to find it. I've got so
many e-mail now. It's buried in the
20 electronic....

CLERK REGISTRAR: Your Honour?

THE COURT: Yes?

CLERK REGISTRAR: I just got the latest version
from Mr. Champ now. So, I can....

25 THE COURT: Okay. Can you just send it as a
separate - separate....

CLERK REGISTRAR: Yeah.

THE COURT: Because I'm - I'm lost in an e-mail
chain.

30 ... PAUSE

CLERK REGISTRAR: The only thing you'll get is the attachment. Nothing - none - none of the rest of the chain.

THE COURT: That's fine. That's what I want.

Still got "draft order" on it though. The one I've got.

CLERK REGISTRAR: Then you're looking at the wrong one. The one I sent has - just has "order".

THE COURT: Okay, well, just let me see.

... PAUSE

THE COURT: Oh, for glory sake. Well, you're gonna have to send it again, because the one I've got has draft order still on it.

MR. CHAMP: So, is that good, Your Honour?

THE COURT: Yes. Well...

MR. CHAMP: Okay.

THE COURT: ...I've got to get it. I haven't got it yet.

MR. CHAMP: Well, we've all agreed on it. Is it okay, Your Honour, if we - we adjourn the hearing?

THE COURT: Yes.

MR. CHAMP: Okay.

THE COURT: Yes, if you trust me, you can - we'll adjourn the hearing.

MR. CHAMP: I think I trust you.

THE COURT: All right. Well, don't be so sure. But anyways.

MR. CHAMP: Okay. Thank you.

THE COURT: All right, thank you very much to

counsel. I appreciated your help.

MR. CHAMP: Thank you, Your Honour.

MS. STEWART: Thank you.

THE COURT: All right, thank you.

Matter is adjourned.

... MATTER ADJOURNED TO FEBRUARY 16, 2022

(5:15 p.m.)

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Certification

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

5

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February 23, 2022

Linda A. Lebeau

Date

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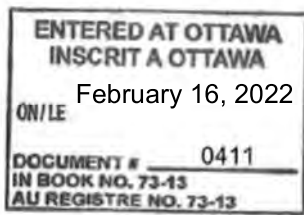
This is Exhibit "D" referred to
in the Affidavit of ZEXI LI,
affirmed before me this 1st day of September,
2023.

A handwritten signature in black ink, appearing to read "Staman", written over a horizontal line.

A Commissioner, etc.

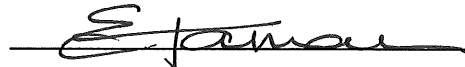
1. **THIS COURT ORDERS** that the interlocutory injunction granted on February 7, 2022, pursuant to section 101 of the *Courts of Justice Act*, Rule 40.01 of the *Rules of Civil Procedure*, and section 12 of the *Class Proceedings Act*, is continued.
2. **THIS COURT ORDERS** that any persons having notice of this Order are hereby restrained and enjoined from using air horns or train horns, other than those on a motor vehicle of a municipal fire department, in the geographic location anywhere in the City of Ottawa, in the vicinity of downtown Ottawa, being any streets north of Highway 417, otherwise known as the Queensway, for 60 days from the date of this Order, or until further order of this Court.
3. **THIS COURT ORDERS** that any persons having notice of this Order are hereby restrained and enjoined from ordering, requesting, inciting, counselling, promoting or encouraging in any manner whatsoever, either directly or indirectly, via social media or otherwise, any person to use air horns or train horns in downtown Ottawa for as long as the Order is in effect.
4. **THIS COURT ORDERS** that the Defendants Barber, Dichter Lich, and King forthwith direct that they communicate this Order through their social media channels, including Twitter, Instagram, TikTok, Facebook, as well as the Freedom Convoy 2022 Facebook page.
5. **THIS COURT ORDERS** that any police officer with the Ottawa Police Service, and/or the appropriate police authority in the jurisdiction in question (the “Police”), shall have authorization to arrest and remove any person who has knowledge of this Order and who the Police have reasonable and probable grounds to believe is contravening or has contravened any provision of this Order.
6. **THIS COURT ORDERS** that the Police shall retain discretion:
 - a. as to the timing and manner of enforcement of this Order, and specifically retain discretion as to the timing and manner of arrest and removal of any person pursuant to this Order; and
 - b. to detain and release any person without arrest who the Police have reasonable and probable grounds to believe is contravening, or has contravened, any provisions of this Order, upon that person agreeing in writing to abide by this Order.
7. **THIS COURT ORDERS** that any peace officer and any member of the Police who arrests or arrests and removes any person pursuant to this Order shall have authorization to release that person from arrest upon that person agreeing in writing to obey this Order;

8. **THIS COURT ORDERS** that, provided the terms of this Order are complied with, the Defendants and other persons remain at liberty to engage in a peaceful, lawful and safe protest.
9. **NOTICE OF THIS ORDER** may be given by: posting copies of this Order in or around downtown Ottawa; reading the Order to any person, including but not limited to reading the Order over an amplification system publishing this Order online, including on social media accounts associated with the Defendants, and by distributing copies of this Order to media including CBC, Radio-Canada, CTV, Global News and all daily newspapers in the Ottawa-Gatineau area.
10. **THIS ORDER** shall not apply to persons acting in the course of or in the exercise of a statutory duty, power or authority.
11. **THIS COURT ORDERS** that the costs of this motion shall be in the cause.



M. Lee J.

This is Exhibit "E" referred to
in the Affidavit of ZEXI LI,
affirmed before me this 1st day of September,
2023.

A handwritten signature in black ink, appearing to read "E. Spanna", written over a horizontal line.

A Commissioner, etc.

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

SUPERIOR COURT OF JUSTICE

5 B E T W E E N:

ZEXI LI

Plaintiff

-and-

10 CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and

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,

20 JOHN DOE 57, JOHN DOE 58, JOHN DOE 59 and JOHN DOE 60

Defendants

P R O C E E D I N G S

25 REMOTELY BEFORE THE HONOURABLE MR. JUSTICE H. MCLEAN

on February 16, 2022, for an OTTAWA proceeding

APPEARANCES:

IDENTIFIED AS ANNOTATED - PARTICIPATED VIA REMOTELY FROM UNKNOWN LOCATIONS

P. Champ, C. Johnson

Counsel for Zexi Li

30 K. Wilson

Counsel for Chris Barber

K. Wilson

Counsel for Benjamin Dichter

K. Wilson

Counsel for Tamara Lich

Table of Contents

SUPERIOR COURT OF JUSTICE

T A B L E O F C O N T E N T S

5		<u>ENTERED ON PAGE</u>
	SUBMISSIONS BY MR. CHAMP	5
	SUBMISSIONS BY MR. WILSON	23
	REASONS FOR DECISION	25

10

Legend	
15	<i>[sic]</i> - Indicates preceding word has been reproduced verbatim and is not a transcription error.
	(ph) - Indicates preceding word has been spelled Phonetically.

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	Transcript Ordered:	February 16, 2022
	Transcript Completed:	February 16, 2022
	Transcript Submitted for Judicial Review:	February 16, 2022
	Approved by MCLEAN, J.:	February 24, 2022
	Ordering Party Notified:	February 24, 2022

WEDNESDAY, FEBRUARY 16, 2022

PLEASE NOTE: PROCEEDINGS WERE RECORDED REMOTELY. PORTIONS OF THIS TRANSCRIPT CONTAIN A HIGHER THAN USUAL NUMBER OF [INDISCERNIBLE] NOTATIONS DUE TO TECHNICAL FAILURE AND POOR QUALITY OF THE AUDIO, AND SOME WORDS MAY NOT HAVE BEEN CAPTURED ON AUDIO DUE TO INTERMITTENT FADING AND/OR MUFFLING OF MICROPHONE.

SOME PARTIES ARE PRESENT IN COURT WHILE OTHERS ARE PARTICIPATING IN THIS HEARING REMOTELY FROM DIFFERENT LOCATIONS. AT TIMES AUDIO RECORDING DOES NOT MEET REQUIRED STANDARD AS DULY NOTED HEREIN.

... WHEREUPON MATTER COMMENCES (10:02 a.m.)

CLERK REGISTRAR: Oye, oye, oye, anyone having business before the Queen's Justice or Superior Court of Justice attend now and you shall be heard. Long live the Queen.

Your Honour, this is the matter of - my apology - this is the matter of Li v. Barber.

Counsel, please state your name for the record.

MR. CHAMP: Paul Champ for the plaintiff and the moving party.

MR. WILSON: Good morning, Mr. Registrar. My name is Keith Wilson. I'm on for three of the

respondents: Tamara Lich, Benjamin Dichter and
Chris Barber.

5 THE COURT: All right. Thank you. Just, I - I
suppose it's, as a matter for formality, I don't
think anybody has received any material or any
indication from anybody else appearing?

MR. CHAMP: We have not. I - I did consult - it's
Paul Champ for the plaintiff, Your Honour.

THE COURT: Yes, yes, thank you.

10 MR. CHAMP: I did briefly consult with counsel for
the Ottawa Police Service, Ms. Stewart, who
appeared before. So, she was aware and she was
content, she'd seen the - the order that we had
prepared.

15 And aside from that, we've not received any
information or notice that - or picked up on
social media or otherwise, that anyone was
interested in attending.

20 THE COURT: Mr. Wilson?

MR. WILSON: The only other named party, sir, as
you're aware, is Mr. Patrick King, and we don't
represent him. He's not affiliated with my
clients.

25 THE COURT: No, but I was just - the - I guess the
point of the discussion is this, you know,
technically speaking, that, with a *ex parte* order,
I'm su - I guess I gotta revert to Latin because
my English isn't very good, but anyway, you know,
30 we're supposed to wait for 15 minutes after the
hour to....

So, I don't know whether - what we should do about that. I'm in the counsel's hands.

5 MR. CHAMP: Paul Champ for the plaintiff, Your Honour. It is true if - I'm not sure if you've had an opportunity to review closely the order that the parties have agreed upon, but it is the case that, aside from it being continued in its application to unnamed persons, we also actually do name Mr. King in this order, which we did not before.

10 We do have evidence of the record that he clearly has notice of the order. And the order did include the reference that it was returnable on this date, at this time. So, given that we are looking to ask the Court for - at least the plaintiff/moving party's asking the Court to issue an order that would apply to Mr. King personally, I'm content that it - it likely would be appropriate to wait until 10:15 to see if....

15 THE COURT: All right. Well, perhaps that would be the case since it is a - you know - what you're asking for is, in effect, a final order. It's not something - well, it could be reviewable.

20 Anything can be reviewable.

25 But I think perhaps we'll just stand the matter down until at least quarter after and then we can proceed. In case there's some - we don't want - you know, and I certainly don't want to get into a discussion later on about technicalities of proceeding. All right.

30

MR. CHAMP: That's prudent. Thank you very much,
Your Honour.

THE COURT: All right. We'll just stand the
matter down until quarter after, please. Thank
you.

R E C E S S (10:05 a.m.)

U P O N R E S U M I N G (10:15 a.m.)

THE COURT: Yes, now it's after 10:15. We should
proceed then. I don't think anybody else has
joined. I - I see there's some things in the chat
function, but I'm not going to open that. And -
but nobody else has joined the actual feed for
this, I take it.

MR. CHAMP: Yeah, the - the only - there's just -
there's an extra panellist, it's Christine
Johnson, Your Honour, it's my co - one of my co-
counsels.

THE COURT: Oh, that's - that's fine. I'm just -
I'm just wondering if there's anyone that's joined
this, or is listening to it, that is a party to
this, or has some interest in it, who wishes to be
added to the hearing. If not, we'll just go ahead
as we are.

MR. CHAMP: Yeah. I'd - I'd just say that if
anyone is listening and for some reason they
believe they do want to participate and they can't
get a hold of anyone to indicate, they could e-
mail my co-counsel, c - Christine Johnson at
cjohnson@champlaw.ca, and she'll bring it to the
Court's attention.

Submissions by Mr. Champ

Well, with that, Your Honour, if you're okay, I would - I'll - I'll proceed?

THE COURT: Yes, go ahead then.

5
SUBMISSIONS BY MR. CHAMP:

10 So, Your Honour, we're hear today, on Wednesday, February the 16th, on a matter returnable from last week on February the 7th. We are seeking a continuation of the injunction order that you issued on February the 7th, at that time, an interim order. We now want to turn this into an interlocu - interlocutory order for 60 days from today's date.

15 We have a few extra slight changes to the order; so we'd like a variation of the order. Before I get to those provisions, Your Honour, I'll just perhaps review very briefly the evidence that the plaintiff has put before the court, so you have some understanding of what has occurred since you issued your order on February the 7th.

20 You have before you, the Moore (ph) affidavit, Your Honour, in the plaintiff's motion record. This is a legal assistant from our office who confirms that....

25 THE COURT: Just - just for the record's sake - and I'm sorry to interrupt you - but you have all these things, Mr. Wilson?

30 MR. WILSON: Yes, yes, Your Honour. I've - Mr. Champ and I have been cooperating....

Submissions by Mr. Champ

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THE COURT: Okay, well that's - that's fine. I just don't want anybody taken by surprise. And you have - you've added some material and I think Mr. Champ's got that, does he not?

MR. WILSON: Yes, sir.

MR. CHAMP: Yes, I do. Yeah.

THE COURT: All right. Thank you. Then proceed. Thank you.

MR. CHAMP: Yeah, I can - I can just review the record then, before the court from both parties, Your Honour, as I did last time. There's four affidavits from the plaintiff/moving party: the Moore (ph) affidavit, the Li affidavit, the plaintiff has sworn a new affidavit, the Flinn (ph) affidavit, and the King affidavit. That's Jeremy King, not Patrick King. That was a private investigator that has been retained by the plaintiff. That's the plaintiff's evidence.

And then the - the responding parties have submitted one affidavit of Tamara Lich, who is one of the defendants.

THE COURT: All right. Thank you.

MR. CHAMP: So, in the evidence of the plaintiff/moving party, Your Honour, you have the Moore (ph) affidavit, which points out at paragraphs 3 to 8 of her affidavit, that the notice of your order last week was communicated to all the different news organizations in the Ottawa area, both French and English. As well as broadcasts, CTV, Global, CBC. And there's also, in that affidavit, indication that all of those

Submissions by Mr. Champ

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and then attached is an exhibit - is a letter from myself to Mr. Wilson on February 13th, just seeking confirmation that the - the other three named defendants, who have appeared before you last week, Mr. Dichter, Mr. Barber, and Ms. Lich, did in fact comply with your order at paragraph 3, to communicate your order. And I guess we'll hear from Mr. Wilson on that 'cause not - no reply to that letter.

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And then, in the Li affidavit, that's the plaintiff, Your Honour, so, Ms. Li testifies again about the impact of the honking of the horns. And then, if you see at paragraphs 6 to 10, Your Honour, of her affidavit, she speaks about how the horns went silent across Ottawa at approximately 3:15 p.m. last Monday, February the 7th. Once you had made your order orally. And she refers to a broadcast on Facebook live. So, that's a social media platform, Your Honour, where individuals can - can broadcasts themselves speaking and anyone can watch, provided it's an open account. It's an individual of Mr. King, Patrick King, where he speaks about the order, Your Honour. So, it would appear that Mr. King was watching the hearing last week, or at the very least, someone informed him of it almost immediately after you made your order. And you'll see in there, he makes several comments that all the horns should seize. He says, "Every trucker, everybody on the convoy, everybody needs to be dead silent on the horns." He then says, "A judge has issued an injunction

Submissions by Mr. Champ

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against the horn for 10 days." And repeats that there needs to be [quote] "Silence on the horns." He then says, "There are grounds to arrest you and pull you out of your trucks." Later he says, "For the next 10 days, you cannot blast your horns. I understand it's hard; we love them. We absolutely love them. But no more horns."

10

Troublingly, Your Honour, then adds in the broadcast - and you can watch that yourself, Your Honour, we - we've added the link there in the affidavit. You can - you can click that. He says, while laughing, "Remember, these people haven't been able to sleep for 10 days. Okay. It's kind of funny. I'm not gonna laugh. But I'm not gonna lie. It's pretty hilarious."

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So, there's some indication of notice, and also an understanding, of at least that defendant, of the harm that they've inflicted on the Ottawa residents.

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Then at paragraph - sorry the next - paragraph 10 of her affidavit, she then notes that on February the 8th, he makes comments, Mr. King that is, on another Facebook live video, which is linked, which you can watch, "I don't give a blank anymore. It's game on, boys. Blow those horns. Let them go. Let them fire as loud as you can."

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Then further evidence that - not immediately, there was - there was relative peace and calm,

Submissions by Mr. Champ

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Your Honour, as a result of this Court's order for approximately 3 days around downtown Ottawa, but then commencing on late February the 10th, as set out in Ms. Li's affidavit, at paragraphs 12 to 16 of her affidavit, the horns did become - began to start again. They're not constant in the same way they were before from early in the morning until late at night, but they are at prolonged periods throughout the day. And again, it's these air horns and rail horns that have the extremely high decibel levels that can cause permanent hearing loss and tinnitus.

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You also have the Flinn (ph) affidavit. That's a - just a resident of Ottawa who has gone around downtown during the period. And he gives evidence from February - February 11th and February the 12th, at paragraphs 11 and 12 of his affidavit, that there are still truck horns now blaring again at times downtown.

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So, the - the evidence in some - from those two affidavits, Your Honour, is that your order absolutely did have some effect. There's been wide notice for your order. But after a few days, it seems that now some, who did have notice of your order - 'cause we know - we can infer they had notice of your order and aware of your order because they all stopped instantly on February the 10th when Mr. King broadcast on Facebook Live to the truckers to stop honking. So, they're aware of your order, but now it appears that they are

Submissions by Mr. Champ

honking at times, again, which is obviously a concern.

5 And then, finally, Your Honour, we have an affidavit from Jeremy King, that's a private investigator that's been retained by the plaintiff. He sets out at paragraphs 5 to 6, the various social media accounts of Mr. Dichter and Ms. Lich. Mr. Dichter is on Twitter and 10 Instagram. His handles are set out there. Ms. Lich is on Twitter and TikTok. And indicates that there's no evidence that they did issue your order, or communicate your order through those social media channels as you had ordered in 15 paragraph 3 of your order last week.

At paragraph 7, there is a reference that Ms. Lich did make a reference to your order on the face - 20 Freedom Convoy Facebook page. Unfortunately, Ms. Lich did not choose to express that horn blowing must stop because of the court order, instead she emphasized the paragraph in your order about - that if people comply with your order, they can continue with lawful and peaceful assembly and 25 protest. So, she chooses to emphasize that part of your order, Your Honour, but unfortunately not the key one that she was directed to do so.

30 And then at paragraph 8 of the - sorry, I apologize, Your Honour. Paragraph 8 of the King affidavit, there's reference to Mr. Barber, the other named defendant. He has TikTok accounts and

Submissions by Mr. Champ

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Facebook accounts, which are named there. And on February the 9th, Mr. Barber did post a video on TikTok, live from Ottawa, stating, "There is an order in place to keep the horns down." So, that's good news. He did in some way communicate the - the general nature of your order. Although it would have been better, I would suggest, if he communicated your order in full. But then he goes on to say that there are police downtown and if any police officer approaches a truck, that a horn - a trucker should [quote] "Grab that horn switch and [do not -] don't let go. Let that blanking horn go no matter what time it is", so, no matter to the downtown Ottawa residents, "And let it [indiscernible...ZOOM interference on channel, audio is distorted] as long as possible until their - their busting your blanking windows down." It says a few other things: "Let that horn go. Let that horn go when that happens. We'll see if we can fire some shit up."

So, - and then at paragraphs 9 through 11 of Mr. Jeremy King's affidavit, he then relates again the - the Facebook Live evidence of Patrick King, again, when he was issuing a broadcast saying that all the horns have to be silent, on February the 7th

So, that's the evidence that you have before you, Your Honour. There's the evidence of my friend, indicating that there's been some exchange of letters between Mrs. Lich and Mr. Watson on - I

Submissions by Mr. Champ

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guess we'll hear from my friend about that - or
its application to today. And perhaps hear about
why his clients have not complied with the court
order.

I'll turn then - I'll just - unless Your Honour
has any questions about that evidence, I'll just
turn finally to the court order that....

THE COURT: No, that's fine.

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MR. CHAMP: Okay. So, the - the proposed order
that we're suggesting, Your Honour, you - you have
before you. It's - we're asking - I'll just go
through the paragraphs to highlight what's new.

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Paragraph 1 is the same.

Paragraph 2: the only change is we're asking,
instead of for 10 days, we're asking for 60 days
from the date of this order. So, time limited and
- I believe everyone in Ottawa hopes that this
occupation will be over before - long before then.

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THE COURT: Well, just on that point. And I - you
know, I'll hear from your friend on it - shouldn't
it be 60 days or until further order of this
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court?

MR. CHAMP: I have no concern with that
*[Indiscernible...multiple speakers at the same
time, unable to decipher words spoken]*.

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THE COURT: No, it's just - it just - it has to -
it - if something happens and it has to be
reviewed, I don't want to get - tie the hands of
the court for, you know, 60 days or longer. It's

Submissions by Mr. Champ

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just....

MR. CHAMP: Sure.

THE COURT: I think that's what should be there.

All right. Thank you. Sorry to interrupt.

MR. CHAMP: No problem, Your Honour. I appreciate that. I - I have no concerns with that. I made a note of it.

THE COURT: Well, I think - I think it's just standard procedure that - I don't want to get into a procedural issue about if there needs to be a change that you have to go to the Court of Appeal for it.

MR. CHAMP: Indeed.

THE COURT: So....

MR. CHAMP: Indeed.

THE COURT: All right. Thank you.

MR. CHAMP: Under paragraph 3: This is a wholly new paragraph of the order, Your Honour. This provision reads that,

This Court orders that any persons having notice of this order are hereby restrained and enjoined from ordering, requesting, inciting, counselling, [phone ringing] - I apologize, Your Honour - inciting, counselling, promoting or encouraging in any matter whatsoever, either directly or indirectly, via social media or otherwise, any person to use air horns or train horns in downtown Ottawa for as long as the order is in effect. [As Read]

Given there's some indications of Mr. King and Mr.

Submissions by Mr. Champ

Barber encouraging people in some way to blow their horns, which would be in violation of the order, we think it's important that that conduct also be enjoined and restrained.

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Number - paragraph 4: We did have - this is about the communication of the order by the defendants. It's very similar to the last one. The differences here is we've added Mr. King now. He does, we would submit on the evidence, have notice of this order, and we will undertake to give him notice of this order - this new order, if it's issued by the court. So, he's added that, Forthwith, direct that they communicate this order through their social media channels. And then we've named the specific media channels now that we've had a private investigator confirm exactly what they are. So, we say, "including Twitter, Instagram, TikTok, Facebook, as well as the Freedom Convoy 22 Facebook page", which is the main page where all the convoy occupiers are following.

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And then the last new provision, Your Honour, is paragraph 8. This is a provision related to Section 141 of the *Courts of Justice Act*, ordering that this order be directed to the Sheriff of the County of Ottawa for enforcement and directs the Ottawa Police Service, and any police service assisting the Ottawa Police Service, to assist the Sheriff in enforcing the order upon request pursuant to Section 141 of the Act.

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Submissions by Mr. Champ

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So, those are the new provisions, Your Honour. We believe you had ad - you know, ample evidence justifying this new order; both the continuation and the - the variation. It's regrettable that we have - we do have evidence that your previous order was violated in a few different ways. And I can assure the court that, as an officer of the court, I'll - I'll take steps, if we do see further breaches of your order, through appropriate contempt proceedings if those individuals are not otherwise...

10

THE COURT: All right.

15

MR. CHAMP: ... [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] by the police service.

20

THE COURT: Well, is the last - paragraph 8, directing the Sheriff to enforce it, is that an appropriate thing to do at this point? Because I think, we're all aware of certain difficulties in enforcement of the order. And the order itself can bear criminal consequences under - what is it, Section 138 of the - 37 of the *Criminal Code*. So, I don't know that that's necessary because - the - the problem I'm having with that - you know, because - and I'll hear from your friend, of course, on it - is the fact that, if I issue that order and nothing happens then there's certain consequences that stem from it because that - I know this is the provision in the *Courts of Justice Act*. And that is a very blunt instrument to the Sheriff, and I have no idea on the material

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Submissions by Mr. Champ

that filed, that the - the Sheriff has the capability, or indeed, the capacity to assist in this.

5 And we now have the change with invoking the *Emergency Measures Act*, which may be helpful in all of this, but I - the difficulty is, if I issue an order to the Sheriff and the Sheriff doesn't comply, then the Sheriff has a problem. And 10 that's - that's - that is my concern. I don't want to put anybody in jeopardy for a situation like that. And I don't think the Sher - you know, there's - to be frank with you, my suspicion is that the Sheriff is certainly capable of seizing 15 assets [*indiscernible...mumbling*] under court process, et cetera, et cetera, but I don't think that they have the capacity or the capability to undertake a - shall we say, a general enforcement of an order.

20 MR. CHAMP: Yes, I hear you, Your Honour. The reason why we added that - and I apologize to the court. I think it probably would have been prudent had we provided you with the - the other 25 injunction order that was issued on Monday, this week, on the 14th, by Justice McWatt. The City of Ottawa's instance - with the interventions and support of the Attorney General of Ontario and the Attorney General of Canada, that injunction order, which is in some way similar to yours - oh, sorry, 30 I'm told that it is in our materials. That's why Ms. Johnson's with me. I - I'll - as I talk, I'll give you the reference to where it is. It's

Submissions by Mr. Champ

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Exhibit G to the affidavit of Trudy Moore (ph).
You can link to it fairly easily, Your Honour, the way we have it. We create our PDFs so all the different documents are - you can link to it. If you go up to the left hand corner, you can....

THE COURT: No, no. I - I've read
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

Yeah, in that order that was issued on Monday, they do have that provision. And my understanding - and this is where I'm out of my depth, I'll confess, Your Honour. As I'm told that it does make it easier for the police and the Sheriff to enforce. I would have thought the other provisions regarding the police and peace officers being able to enforce was sufficient, and I, unfortunately, I'm not able to speak to the - the technical relationships between the Sheriff and the police and why that that - an order of that nature is advisable. I've just been informed by the....

THE COURT: No, I appreciate your candor - your candor.

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.
It's at page 188.

THE COURT: No, I - I've read the order. I'm just saying I'm - what I'm concerned about is, the order will be enforced, I suspect, at some point.

Submissions by Mr. Champ

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You know - and - and I'm speculating here. I don't know what's going to happen, nor do any of us. But I'm - my concern with that is that if it's not enforced and I direct it to the Sheriff, isn't there potentiality that the Sheriff's in contempt?

MR. CHAMP: Your Honour, I'll be candid again, I did myself also question why they were using that order. I was just advised that it's very standard and it does provide some extra assistance. But in - in all candor, Your Honour, I can't explain why.

THE COURT: No, I - I can't - well, I know why. I - I - I....

MR. CHAMP: You may know better than me.

THE COURT: No, no, no. It's not - I know exactly - it is - okay. I'm trying to think back. The Sheriff is directed to enforce any order that the court makes. And what [*indiscernible...ZOOM interference on channel, audio is distorted*] is that if you say to the Sheriff, "You enforce that order". You know, you talk to him and say - or her and say, "Enforce that order", they have a duty to do that. Okay.

It's like, for example, if there's a foreclosure and they have to seize items, you know, that are, you know, the chattels or whatever, then the Sheriff does that without a further order of mine. They do it because it's - they're enforcing the writ - of - whatever they call them know - writ of seizure and sale. Okay. They're doing that.

Submissions by Mr. Champ

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But if I invoke that order then I think it's a matter of contempt if they don't do it. So, I'm a little - that's my concern. I'm not saying I - I won't do it, but I certainly don't want to put the Sheriff into a situation a) that they're jeopardizing themselves, or that they suffer consequences because of an order that is in - in their bailiwick unenforceable because they just can't do it. That's - that's my concern.

10

But you know, I - I also read the order of the Associate Chief Justice and it seems to me there's a considerable overlap. And if, for example, if I don't put that particular clause in the order, I don't think it makes a great deal of difference because there's a - a part of her order is noise too.

15

MR. CHAMP: You're - you're quite right, Your Honour. And I think, in fact, you have a great deal of evidence that there is a breach of the order and the police aren't enforcing. So, if the police aren't enforcing....

20

THE COURT: No, that's what I'm saying....

25

MR. CHAMP: Yeah, why are they placing it on the shoulders of the Sheriff? And based on your comments, Your Honour, I - I have no concern about withdrawing it.

THE COURT: All right, that's fine.

30

MR. CHAMP: It's *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: I just - I - I - it's the kind of

Submissions by Mr. Champ

5

thing - and we're all in a unique situation. You know. And I'm fully aware of that. And from the material that I've seen from all of you, it's a unique situation. And the concern I have is not that I won't suggest to the Sheriff that it be enforced; that's fine. But I - I think where that order is necessary is for the fact that the Sheriff does not wish to enforce something.

MR. CHAMP: Indeed.

10

THE COURT: And I have - from ancient history, an example of it. And I'll give you the example that strikes me. Is, years ago, there was a situation in Toronto where the - there was an order of the High Court to transfer children from one spouse to another. And for one reason or another, the Sheriff didn't want to enforce the order because in those days that's how it worked. You know, if you want - if the parents were refusing, the Sheriff went and, shall we say, sequestered the children, which must have been quite the thing to do. And the fact is that this went on and on and on. Finally, there was another order given of the High Court forcing the Sheriff to in - in - to seize the children. And unfortunately, for one reason or another, they tried to do it at a birthday party and they got the wrong four children. Okay.

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So, that's the circumstance I think that section applies. For example, if you say to the child - the Sheriff, "I have this order. I want you to enforce it." And the Sheriff says, "No, I don't

Submissions by Mr. Champ

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want to do it" without any good reason. Then you can come back under 161 and get an order from me saying, "Thou shall do it." I think that's the way that it works. And that's my recollection of it from having been involved in some of these things in the past.

10

But anyway, I think that's a moot point given the circumstances anyway because I think there's - now, I - and I haven't read the emergency regulations under the Act, but I think there's all kinds of ways of enforcing this now that didn't exist a week or nine days ago.

15

MR. CHAMP: *[Indiscernible...ZOOM interference on channel, audio is distorted]* Your Honour.

THE COURT: All right.

20

MR. CHAMP: Yeah, unfortunately, I - I can't pretend to understand the mysteries of what the City of Ottawa and the Ottawa Police are doing at this time and why their *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: No, no. I - well, I

25

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* that time. And....

THE COURT: Nor perhaps - nor perhaps should we.

30

MR. CHAMP: Well, I - I've invited the City of Ottawa to intervene on this one instead and use this as a vehicle. As you saw, in some of the cases in the materials we provided you with last week, like the *Foxgate* case for example, that's

Submissions by Mr. Champ
Submissions by Mr. Wilson

often what the City does in circumstances like this. But for whatever reason, they chose to do their....

5 THE COURT: Well, they're not - they're not here, so that's....

MR. CHAMP: Yeah, yeah.

THE COURT: That's fine. All right. Thank you.

MR. CHAMP: Thank you, Your Honour.

THE COURT: Mr. Wilson.

10 SUBMISSIONS BY MR. WILSON:

My Lord - or, Your Honour, thank you. I have no concerns about removing the provision to the Sheriff. I agreed to that simply to - to help
15 make the order more enforceable because my clients respect it and want it to be enforced.

THE COURT: You're - you're breaking up. I don't know whether you should be closer to your microphone or what.

20 MR. WILSON: Okay. That's probably the Wi-Fi here at the hotel is - is not the....

THE COURT: There, that's - that's better. You can hear, Mr. Champ?

MR. CHAMP: ...NO AUDIBLE RESPONSE.

25 MR. WILSON: Thank you. Thank you, Your Honour.

30 So, I'll just repeat myself, sir, just in case. We consented to the addition of the provision for the Sheriff in good faith, to assist my friend in his efforts to ensure that your order is enforced. If it's going to complicate things, we have no objection to it being removed.

Submissions by Mr. Wilson

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Sir, you'll recall that when we were last before you and the suggestion was put forward for your - for the addition of an obligation on my clients to use social media, there was concerns raised by me, and I think even you, Your Honour, as to the murkiness of that because a number of my clients' accounts are either shut down and suspended, or are intermittently shut down, or are being controlled by the algorithm that is programmed by the tech company for which my clients have no control.

10

15

So, we took it as a use best efforts. We know that it's been widely disseminated. And you know, I don't - it's clear to me that this is an application to extend - to extend the order from interim to interlocutory. This is not a contempt application. If I thought it were, I would put a - would have had put very different evidence before you, sir.

20

25

In short, as you know from my clients' affidavit, the mayor of Ottawa reached out and requested a wholesale change to how the protest was occurring. Asked that everything be pushed out of the downtown and onto Wellington, and my clients agreed. Trucks have moved. They've got 40 more to go today. If - if the police will allow the movement that remains to be seen.

30

But we consent to this order. We don't oppose it.

Reasons for Decision

McLean, J.

5 My three individually named clients do not believe that horns should be used. As you know, two of them don't even have truck here, but in principle, they agree that it's too disruptive to the residents and they're even going the extra step of trying to move the trucks north.

So, that's all I have to say, sir.

10 THE COURT: All right then.

R E A S O N S F O R D E C I S I O N

Transcribed *verbatim* as spoken on the record for purposes of judicial review and can be checked for accuracy by listening to the Liberty DCR audio recording
0411_CR34_20220207_093144__10_MCLEANH.dcr

15 MCLEAN, J. (Orally):

Then, on consent, the order will go as suggested, with the amendment that, and I don't know what paragraph; I could look it up, but it's the paragraph re time. It will be for 60 days or until further order of this court. The paragraph dealing with the direction to the Sheriff will be removed.

25 And I will sign the endorsement but I'll also sign the order, if you provide it to the registrar to give to me, and I will do it immediately.

30 I want to make sure that everybody knows from this, that when I said last week that there is a right to dissent, and there is a right to protest, that exists, but it has to be balanced by the duty

Reasons for Decision

McLean, J.

5 to protect the public. And that duty, in this case, is paramount to the duty of dissent. In other words, you can dissent as long as you don't hurt people. And that's the balance we have to maintain.

10 And there's a paragraph out of a - a judgment I found from the US Supreme Court and I think it sums it up pretty well, and I'll read it. It's from Mr. Justice Jackson from 1948 and it says,
15 This Court has gone far forward [*sic*] accepting the doctrine that civil liberty means the removal of all restraints from these crowds and that all local attempts to maintain order are impairments of the liberty of the citizen. The choice is not between order and liberty. It is between liberty with order and anarchy without. There is a danger that, if the Court does not temper its
20 doctrine of logic with a little practical wisdom, it will convert the Bill of Rights to a suicide pact. [As Read]

25 And I affirm the conviction that he states. And I fully agree with that. We have to make sure that these things are done in an orderly manner and hurting people by keeping them up all night, or deciding to, or destroying their peace in their own home, is certainly not something that a
30 peaceable country like Canada is, can put up with. Because there's a right here to protest, but there's an overriding duty here for those

Reasons for Decision

McLean, J.

5
protestors. The duty is on those protestors to protect the public generally. And they have a duty to be concerned about their fellow citizens' needs and feelings.

10
What we are here to do is to control that kind of protest. What the protestors must understand is that they can convince people to do other things. However, they cannot use force of one kind or another, or pain, or anything else that's massively disruptive to other people. In other words, keeping people from going to work, keeping people from sleeping. They can't use that to put their beliefs on other members of the public.

15
And in these circumstances, the public's rights are far superior to the protestors' rights, in the way this has gone. And so therefore, the order will be given as amended.

20

25
Thank you very much. And you'll provide me with a draft copy of the order with those changes and I'll sign it. Thank you.

MR. WILSON: Your Honour?

THE COURT: Yes.

30
MR. WILSON: Can I trouble you just to have the style of cause for that case? I would very much like to read it.

THE COURT: Let's see. Oh, that's - you're asking me something I don't....

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MR. WILSON: Just even the case name.

THE COURT: I don't believe - it's - just give me one second.

MR. WILSON: Thank you, My Lord - or Your Honour.

THE COURT: That's fine.

... PAUSE

It's Treminiello, T-R-E-M-I-N-I-E-L-L-O, v. the City of Chicago, 337 U.S. 1, 1949. And he was the dissent. But I think it - the business about anarchy and - is an important thing that we have to understand. That people get the right to protest, but they also have to give the right to other people to live quietly and peaceably.

All right?

MR. WILSON: Your - your guidance is most appreciated, sir. Thank you.

THE COURT: Thank you.

All right, anything further from either counsel?

MR. CHAMP: No, nothing, Your Honour.

THE COURT: Okay.

MR. CHAMP: We'll get that order to you as soon as possible.

THE COURT: Thank you.

MR. CHAMP: Thank you.

... MATTER CONCLUDED

(10:49 a.m.)

Certification

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

5

I, Linda A. Lebeau, acknowledge the foregoing document of the court proceeding pertaining to the matter of Liv v. Barber et al held on FEBRUARY 16, 2022 with named participants conducted REMOTELY and live video feed from unidentified remote locations was produced to the best of my skills and ability. **Produced from one channel and live video feed recorded on LIBERTY file number 0411_CR34_20220216_084644__10_MCLEANH.dcr** certified in Form 1 by court-monitor Tae Robinson.

10

15

February 24, 2022

Linda A. Lebeau

Date

Linda A. Lebeau

20



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ZEXI LI et al

-and-

BARBER, DICHTER, LICH, KING et al

Plaintiffs (Respondents)

Defendants (Moving Parties)

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at
Ottawa

**AFFIDAVIT OF ZEXI LI
Affirmed September 1, 2023**

CHAMP AND ASSOCIATES
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Solicitors for the Plaintiffs (Respondents)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**ZEXI LI, HAPPY GOAT COFFEE COMPANY INC.,
7983794 CANADA INC (c.o.b. as UNION: LOCAL 613)
And GEOFFREY DELANEY**

Plaintiffs

and

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHLOAS ST. LOUIS (a.k.a. @NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC,
JACOB WELLS, HAROLD JONKER, JONKER TRUCKING INC.
and BRAD HOWLAND**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF JOE JANZEN

I, JOE JACOB ABRAM JANZEN, of the City of Morden, in the Province of Manitoba,
MAKE OATH AND SAY:

1. I am a defendant in this matter. As such, I have personal knowledge of the matters to which I depose in this affidavit. Where my knowledge with respect to such matters is based on information and belief, I have set out the source of the information, and believe it to be true.

2. I swear this affidavit in support of the pending anti-SLAPP motion that has been brought by some of the defendants in this matter, including myself.

3. In response to paragraphs 1-18 of the Further Fresh as Amended Statement of Claim (the “**Claim**”), I admit that I and, to the best of my knowledge, the other defendants, did intend to stage a demonstration in the vicinity of the Parliament Buildings in downtown Ottawa in January and February 2022. Our goal was to advance certain grievances to our federal political leaders. That said, I reject the balance of the allegations in these paragraphs. I deny the entirety of the narrative that the plaintiffs have attempted to set up in the Overview section of the Claim.

4. In response to the allegations at paragraph 34 of the Claim, I reside in Morden, Manitoba. I am a trucker, and I did drive to Ottawa to participate in the Freedom Convoy protest.

5. In further response to the allegations at paragraph 34 of the Claim, I agree that I was a “road captain” for part of the trip to Ottawa; however, I deny that this role meant that I was an “organizer” or otherwise a “leader” of the Freedom Convoy in any capacity. My role as “road captain” was simply to organize trucks in Manitoba that would ultimately join up (in both Brandon and Winnipeg) with the main body of the convoy as it headed east.

6. Contrary to the allegations in paragraph 34 of the Claim, I was not a “liaison” between the convoy and Manitoba drivers at any time during the protest. To be clear, I had no authority in Ottawa whatsoever as a “road captain”, whether in relation to Manitoba drivers or anyone else.

7. In further response to the allegations at paragraph 34 of the Claim, neither I nor, to the best of my knowledge, any of the drivers from Manitoba had any intention of driving to Ottawa to engage in tortious or illegal conduct of any kind.

8. In response to the allegations at paragraph 43 of the Claim, I deny that I or any of the other defendants referred to at paragraph 43 were “responsible” for the various generic activities listed therein. There were never any such “responsibilities” in the sense that either I or the other so-called “Organizer Defendants” had any definite roles to play while participating in the Freedom Convoy. There were no such roles. Moreover, even had such roles existed, I personally had no such role whatsoever. There was no hierarchy or indeed any real organizational structure at all. There was certainly never any “common design”, whether among the “Organizer Defendants” themselves or between them and any other individuals, to commit the torts or private and/or public nuisance, or any other tortious conduct. Indeed, there was never any “common design”, whether among the “Organizer Defendants” themselves or between them and any other individuals, to do any of the things that are alleged by the plaintiffs to constitute a private and/or public nuisance in this proceeding, including the use of truck horns, the production of diesel fumes as a by-product of idling truck engines, etc.

9. Furthermore, I deny that the various generic activities described at paragraph 43 of the Claim were things that I or the other so-called “Organizer Defendants” ever even contemplated. For example, there was never any contemplation of “strategy” or “tactics” in the sense suggested by the plaintiffs. These words suggest a concerted effort by the so-called “Organizer Defendants” to direct or control other participants in the Freedom Convoy – by way of example, that the so-called “Organizer Defendants” somehow came up with a plan to use truck horns as a form of protest, and to coordinate times where horns would be blown in unison, in order to disrupt the lives of Ottawa residents as much as possible. To be clear, I am not aware that there was ever any such “strategy” or “tactic”. To the extent that the Claim alleges any such strategy or tactics, those allegations are unfounded.

10. Further still, I had almost no role to play at all once the convoy arrived in Ottawa. I never honked an air horn, nor did I ever encourage, incite or direct anyone to do so. Nor was I involved in fundraising efforts, or with the media. I did not even have a tractor-trailer unit in Ottawa.

11. I did attend daily meetings where I listened to updates and other news about the protest; however, I never participated in a meaningful way in such meetings.

12. In reality, I did very little in Ottawa. Most of the time I was simply a passive protestor, “hanging around” and participating in the demonstration by my very presence. I would also walk around the protest area and speak to other truckers and ask if they

needed anything. I would also assist in delivering supplies to those who did need something, and other things of that nature. I saw myself, essentially, as a “spare pair of hands”. I thus do not believe that my role in Ottawa was such that I could fairly be described as an “organizer” of the protest in any way.

13. Contrary to the allegations at paragraph 43 of the Claim, my goal in participating in the Freedom Convoy was simply for somebody from the federal government to come and listen to us and listen to the concerns that we had, about the ongoing Covid-19 vaccine mandates, particularly with respect to cross-border trucking. I had been growing increasingly alarmed with the Canadian government’s Covid-19 vaccine mandates and the harm that I had been seeing them inflict on Canadians. I felt that I needed to exercise my democratic rights. I felt that this was important for Canadians who had been living under lockdowns and restrictions for two years. My goal was to protest and to be heard. I wanted to express my strong disagreement with the government’s Covid-19 vaccine mandates and other policies, and I wanted to support my fellow protestors and other Canadians who felt the same as me. I wanted the mandates to end.

14. To the best of my knowledge, all the other defendants participated in the Freedom Convoy for similar reasons, and with similar goals.

15. I deny the allegations at paragraphs 48 and 49 of the Claim in their entirety.

16. In response to the allegations at paragraph 72 of the Claim, I reject the notion that I, along with any of the other so-called “Organizer Defendants”, “decided” that “the plan was to occupy downtown Ottawa for an indefinite period of time until [our] political demands were met”. I deny entirely the third sentence of paragraph 72. To the best of my knowledge, there was never any such “common intention” as described in that sentence.

17. In response to the allegations at paragraph 74 of the Claim, again I deny that I or the so-called “Organizer Defendants” had a “common plan” to “seriously interfere with the rights of the class members”. This is simply untrue.

18. In response to the allegations at paragraphs 75 and 76 of the Claim, I generally admit that the other so-called “Organizer Defendants” made some efforts to discuss and coordinate plans and divide responsibilities among ourselves to oversee planning and logistics, and manage social media and fundraisers. However, I deny that those efforts resulted in any kind of formal hierarchy, organization or “central command” that would go on to control and direct the Freedom Convoy in any appreciable way.

19. In response to the allegations at paragraph 81 of the Claim, again, I admit that I acted in a limited manner as a “road captain”, meaning that I helped organize trucks from Manitoba that joined the main convoy, as it passed through Brandon and Winnipeg, and continued to Ottawa.

20. I deny entirely the allegations at paragraph 85 of the Claim.

21. I deny entirely the allegations at paragraph 86 of the Claim. Such allegations are false. There was simply no such “tactic”.

22. With respect to the allegations at paragraphs 87-89 of the Claim, I agree that Freedom Convoy trucks began to arrive in Ottawa around January 28, 2022. I myself arrived in Ottawa on or around that date. However, I reject the allegation that Freedom Convoy vehicles “congregated and began to block streets around Parliament Hill and in the surrounding neighbourhoods”, “as planned” by the defendants. I further reject the allegation that this was in any way a “plan” by the so-called “Organizer Defendants” to “gridlock’ downtown Ottawa”. There was no such “plan”, to the best of my knowledge.

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

24. In response to the allegations at paragraph 96 of the Claim, I agree that some of the “Organizer Defendants”, including me, would do what we could to help out in general as we saw a need, including delivering various supplies to truck drivers from time to time. However, it is untrue that “the trucks remained running all day and night”.

25. In response to the allegations at paragraph 97 of the Claim, it is simply false that Freedom Convoy vehicles “remained idling 24 hours per day for the duration of the Freedom Convoy protest, emitting noxious diesel fumes, particulates and gases.” There is no support for this assertion in the Claim. I personally never saw any trucks at all idling 24 hours per day for the duration of the protest.

26. In response to the allegations at paragraphs 98-99 of the Claim, I agree that, broadly speaking, a staging area for the Freedom Convoy protest was set up that came to be known as “Coventry”. However, I reject all of the precise allegations in these paragraphs.

27. In response to the allegations at paragraphs 101-109 of the Claim, I agree that, from time to time, I and/or the other so-called “Organizer Defendants” would communicate with the other protestors through various social media channels, meet daily at various hotels in downtown Ottawa to discuss various issues related to the protest in general, and hold regular press conferences. That said, I deny the specific allegations in these paragraphs, including the allegations that these activities were in any way part of a “common design” on the part of any of the defendants, as alleged in the Claim. I also reject the characterization of the Freedom Convoy protest as an “occupation”.

28. In response to the allegations at paragraphs 110-118 of the Claim, I admit that there were many instances where protestors honked the horns of many of the tractor-trailer units that were located in downtown Ottawa during the protest. That said, I deny all of the specific allegations in these paragraphs, including the allegations to the effect that the honking of horns was a “main tactic” that was part of any “common design” on the part of any of the defendants. Neither I nor, to the best of my knowledge, any of the other so-called “Organizer Defendants” ever “planned, organized, encouraged and directed” anyone to “blast the horns on their vehicles, non-stop, for several hours every day”. I reject the very notion that I had any authority to do so, or that any of the other protestors would have followed any such instructions anyway. I also reject the allegation that any horns in fact were being honked “non-stop, for several hours every day”. To the best of my recollection, I personally never honked any horns at all during the Freedom Convoy protest.

29. In response to the allegations at paragraphs 119-142 of the Claim, I agree that the Freedom Convoy protest did receive a large amount of donations through the “Go Fund Me” and “GiveSendGo” online platforms, from donors across Canada and beyond. That said, I deny all of the specific allegations in these paragraphs, particularly that the raising of money by the Freedom Convoy protest was in any way “for the express purpose of supporting the indefinite truck blockade of public streets and roadways, the non-stop idling of trucks and associated air pollution, and the extreme and incessant horn honking in the Occupation Zone”.

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

31. In response to the allegations at paragraphs 152-162 of the Claim, I agree that Justice Maclean granted an interim injunction in this proceeding on February 7, 2022, which was then extended on February 16, 2022, on an interlocutory basis for a further 60 days. That said, I deny all other specific allegations in these paragraphs.

32. In response to the allegations at paragraphs 163-173 of the Claim, I generally agree that the various declarations of emergency referred to in these paragraphs were issued. That said, I deny all other specific allegations in these paragraphs, including that the various declarations were issued “given the ongoing harm to resident, businesses and employees in downtown Ottawa”.

33. With respect to the allegations at paragraphs 174-223 of the Claim, I have no knowledge of any of them.

34. With respect to the allegations at paragraphs 224-244 of the Claim, I deny all allegations of private and public nuisance made in this proceeding. I further deny that the plaintiffs have suffered any of the damages claimed.

35. Speaking for myself, all the activities described above in which I participated during the Freedom Convoy protests were done in an effort to express my strong opposition to the federal government's vaccine mandates and restrictions relating to the Covid-19 situation, and my support for the other protestors.

36.

SWORN at the City of Winkler,)
in the Province of Manitoba,)
on the 24th day of August, 2023,)
in accordance with O.Reg 431/20.)


SHELLEY L. OVERWATER
Barrister & Solicitor


JOE JACOB ABRAM JANZEN

ZEXI LI. ET AL.
PLAINTIFFS

-and-

CHRIS BARBER ET AL.
DEFENDANTS

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA

AFFIDAVIT OF JOE JACOB ABRAM JANZEN

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(i)

INDEX

NAME OF WITNESS: DANIEL BULFORD

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 19

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

EXHIBIT NO. 1: Copy of affidavit of Mr. Bulford sworn February
5, 2022, attached as Exhibit A to the affidavit of Ms.
Moore..... 13

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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2

1 DANIEL BULFORD, SWORN:

2 CROSS-EXAMINATION BY MR. CHAMP:

3 MR. CHAMP: It's September 15th, 2023. We are on
4 the record on Court File NO. CV-22-00088514, Li et al v.
5 Barber et al. This is Paul Champ, counsel for the
6 plaintiffs. We are here for the cross-examination of the
7 affidavit of Daniel Bulford, sworn on August 24th, 2023.

8 1. Q. Do you have a copy of that affidavit with you,
9 Mr. Bulford?

10 A. Yes, I do, sir.

11 MR. CHAMP: Okay, thank you. Just before I
12 commence, your counsel is just going to note something on
13 the record.

14 MR. MANSON: For the record, and out of an
15 abundance of caution, Mr. Bulford has instructed me to
16 invoke on his behalf the protections of Section 13 of the
17 Charter of Rights, Section 5.2 of the *Canada Evidence Act*,
18 Section 9.2 of the *Ontario Evidence Act* and all
19 corresponding provisions of the evidence acts in the other
20 provinces. Mr. Bulford, can you confirm for us that is,
21 in fact, your instruction?

22 THE WITNESS: I can confirm that's my instruction.

23 MR. MANSON: Thank you.

24 MR. CHAMP:

25 2. Q. Mr. Bulford, I am just going to walk through a

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1 couple of things in your affidavit and ask you a few
2 questions. First at paragraph 6 in your affidavit, and it
3 goes over to the next page, you say that your ultimate
4 role came to be that of a liaison between the protest and
5 the Ottawa Police Service, the Parliamentary Protective
6 Service, the Ontario Provincial Police and the RCMP. When
7 you say a liaison between the protest and all those law
8 enforcement agencies, who was the protest that you were
9 liaising with?

10 A. I was police liaison between Adopt a Trucker
11 Volunteers that were supporting the Freedom Convoy and the
12 various police services.

13 3. Q. And to communicate with the protest
14 volunteers, that was at meetings and so forth at the
15 hotels. Is that right?

16 A. Typically most of the volunteers were out
17 doing different tasks, so communication would be through
18 messaging, secure messaging services, occasional meetings,
19 and most of my time was spent triaging information that
20 was incoming through telephone calls, people sending me
21 things that were posted and circulating on social media.
22 And so anything that appeared to be of concern, I would
23 try and make efforts to verify its authenticity and if I
24 felt it was something of legitimate concern, or something
25 that was beyond my capability to verify, I would push that

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4

1 information to network of the truck captains to
2 disseminate to the convoy protestors and then I would also
3 disseminate that information to the various police and
4 security service.

5 4. Q. What was social media or channel of choice
6 that you would communicate to the truck captains?

7 A. I didn't use social media hardly at all.

8 5. Q. Was it WhatsApp or --

9 A. Signal.

10 6. Q. So you had a Signal group for the truck
11 captains or block captains I guess.

12 A. I didn't have a Signal group with truck
13 captains. I think maybe it was -- I am trying to recall
14 who most of that information would go to. It was someone
15 who was working out of the Arc Hotel.

16 7. Q. Maybe I misunderstood your earlier answer. It
17 was my understanding when you would get information, if
18 there was a concern you would look into it, investigate
19 it, try to verify it and then whatever you learned from
20 that you would communicate it, relevant to the law
21 enforcement and you would also communicate information to
22 the truck captains. And what I was just trying to
23 understand is how did you communicate that information to
24 the truck captains.

25 A. There was a contact at the Arc Hotel that was

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5

1 set up. They had set up a push text notification, like a
2 mass distribution text message.

3 8. Q. Fair enough, okay.

4 A. But I didn't have direct contact with that. I
5 had to send that over to the Arc.

6 9. Q. The Arc was sort of like the operation centre,
7 I guess.

8 A. Well that was one primary location where the
9 various organizer defendants were staying and spent most
10 of their time.

11 10. Q. Some of the organizer defendants were staying
12 in some of the other hotels, like the Swiss Hotel and the
13 Sheraton Hotel.

14 A. Yes, that's my understanding.

15 11. Q. And sometimes there were meetings held at
16 those hotels as well.

17 A. Sometimes.

18 12. Q. And you would attend meetings at those hotels
19 at times.

20 A. Usually at the Swiss. If there was anything
21 at the Swiss Hotel, I was there most of the time. And
22 then occasionally I would go over to, I didn't spend much
23 time at the Arc. I was there a couple of times or the
24 Sheraton, and usually that was either for a briefing from
25 legal representation or for a press conference of sorts.

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6

1 13. Q. Right. My understanding is the Arc Hotel, the
2 meeting rooms there, that was the sort of hub or clearing
3 house for communicating and providing supplies, et cetera
4 to the truckers on the street.

5 A. My understanding is that the Arc was basically
6 responsible for communicating anything that had to do with
7 truck operation and truck movement.

8 14. Q. Truck movement, okay.

9 A. Yeah.

10 15. Q. Mr. Marazzo, you would work with him at times.

11 A. I was in the occasional meeting with Mr.
12 Marazzo but we didn't work together very closely.

13 16. Q. He was working more closely with the trucks
14 and so forth. Is that your understanding?

15 A. Yes, that's correct. That's my understanding.

16 17. Q. You would have participated in a number of
17 meetings with Keith Wilson and the other lawyers. Is that
18 right?

19 A. Yes, that's correct.

20 18. Q. They would provide you guys with advice and
21 information.

22 A. Yeah, updates about what was happening with
23 the injunction orders and what criteria we had to maintain
24 to fall within Justice McLean's legal protest.

25 19. Q. And also, GoFundMe, they were dealing with

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7

1 GoFundMe and so forth.

2 A. Yes, that's my understanding but I didn't have
3 any involvement in the details of the fundraising
4 activities.

5 20. Q. Okay.

6 MR. MANSON: Counsel, forgive me. Was that
7 question referring to whether Keith and Eva were dealing
8 with GoFundMe or was that --?

9 MR. CHAMP: It was, yes.

10 MR. MANSON: I am concerned about legal privilege.
11 I am sure are aware. Anyway, he has answered the
12 question.

13 MR. CHAMP: I think it is probably known. They
14 were communicating with GoFundMe trying to persuade them
15 to change their position.

16 21. Q. In terms of the Freedom 2022 Corporation,.
17 were you part of meetings where it was discussed that
18 there should be a corporation created?

19 A. No, I was not.

20 MR. CHAMP: Is that problematic to you, counsel?
21 I just want to be careful.

22 MR. MANSON: No. That question was fine anyway,
23 counsel. Thank you.

24 MR. CHAMP: Okay. I am sensitive to those issues
25 and I will try to stay away from that.

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1 22. Q. On the horn injunction motion, initially that
2 motion, Tamara Lich and Chris Barber, they were opposing
3 that horn injunction initially. Do you recall that?

4 A. That's my understanding, yes.

5 23. Q. I don't need to know the content of the
6 meeting but you were part of some meetings where that was
7 discussed to oppose the horn injunction.

8 A. No, to the best of my recollection, the first
9 involvement I had in that regard was when I was asked to
10 prepare an affidavit.

11 24. Q. Right. Yes, you did. You swore an affidavit
12 in that matter on February 5th, 2022. Do you recall that?

13 A. I do.

14 MR. CHAMP: Counsel, do you have a copy of that
15 affidavit with you, Mr. Mason? It's Exhibit A to the
16 affidavit of Trudy Moore.

17 MR. MANSON: Yes, I do.

18 MR. CHAMP: To make it easier for Mr. Bulford,
19 counsel, do you have any objection or concern if I ask the
20 court reporter to give me share screen and I will just put
21 it up?

22 MR. MANSON: No, no objection.

23 MR. CHAMP: Thank you.

24 25. Q. You will see the last page here, Mr. Bulford.
25 It says, "Sworn Remotely by videoconference by Daniel

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9

1 Bulford on the 5th of February, 2022".

2 A. Yes.

3 26. Q. Who is this? Do you know that person who
4 swore your affidavit?

5 A. I don't recall that person.

6 27. Q. There was a lot going on during those day. I
7 know it was insanely busy for you. I was insanely busy
8 and I can only imagine you guys were about 10 times busier
9 than me. Here is the first page, Mr. Bulford. You will
10 see here the court file. It's the same court file as we
11 have got here. At that time, there was just one plaintiff
12 and at that time, there was just a few named defendants.
13 By the way, Mr. Patrick King, did you ever have occasion
14 to communicate with him?

15 A. I encountered Mr. King twice during the convoy
16 for very brief period of time. I met him once and then
17 there was another time where I briefly encountered him at
18 the Swiss Hotel. That's it.

19 28. Q. He was in that meeting where him and Mr. Eros
20 had a bit of a disagreement.

21 A. I was not there when that occurred. I heard
22 about that after the fact.

23 29. Q. I think they needed security at that one.
24 That's when you should have been there.

25 A. I probably should have been there, yes.

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10

1 30. Q. Sorry, for making light of that. I shouldn't
2 do that. This is the affidavit. You recall swearing this
3 affidavit on February 5th, 2022.

4 A. Yes, I do.

5 31. Q. And the purpose of this affidavit was because
6 the named defendants wanted to oppose the horn injunction.

7 A. That's my understanding.

8 32. Q. Here you will see paragraph 7, you speak
9 about,

10 On the night of February 1, 2022, I
11 received a complaint from the area of
12 Rideau and Sussex about the honking
13 through the night. The caller was a
14 supporter of the Freedom Convoy. He said
15 that most of the residences in this area
16 were vacant but he wanted to convey his
17 concern about some elderly residents. I
18 explained the Freedom Convoy leadership
19 had agreed upon the following schedule out
20 of respect for such concerns.

21 And then we will see the next page.

22 A. Coordinated unified honk every half an
23 hour for 1 minute, between the hours of
24 08:00 a.m. and 08:00 p.m., followed by
25 silence between the hours of 08:00 p.m. to

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1 08:00 a.m.

2 The first question I have is, this coordinated
3 honking was agreed because some people were getting very
4 upset with just like the chaotic honking at all hours of
5 the days and nights. Was that the idea?

6 A. For context here, I was not a part of any of
7 the planning of this schedule. This information filtered
8 into me second-hand maybe, second or third-hand to the
9 Swiss Hotel. And so when the gentleman called me directly,
10 I just felt like okay, well here is at least something I
11 can explain to him that hopefully shows an effort on
12 behalf of the Convoy to respect that concern that he was
13 expressing.

14 33. Q. And then the next paragraph says,
15 I confirmed this schedule in the days
16 following with two separate truck drivers,
17 who advised that during daytime hours,
18 after the coordinated one-minute honk, was
19 up to 10 minutes of distress (s.o.s.)
20 honking signal. Both drivers confirmed
21 that the silent hours between 08:00 p.m.
22 and 08:00 a.m. was still in effect.

23 So it was your understanding the truckers had
24 agreed that they would maintain silence hours between 8:00
25 p.m. and 8:00 a.m.

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1 A. That was my understanding, yes.

2 34. Q. That they wouldn't honk at night.

3 A. Correct.

4 35. Q. But then during the day, they were doing 10
5 minutes of distress honking signal.

6 A. That's what I was told.

7 36. Q. When you were at the Arc did you ever see a
8 printed paper with that schedule, with those instructions
9 on it?

10 A. I may have but I don't recall for certain.

11 37. Q. Do you ever recall hearing people being
12 concerned because some of the truckers weren't following
13 the schedule, sometimes starting earlier than 8:00 a.m. or
14 going later than 8:00 p.m.?

15 A. Yes, I do recall hearing some people mention
16 that the schedule was supposed to be in place because
17 people were worried about the injunction. But we didn't
18 really have any authority or actual control over that
19 group of people and they were very – I would say that
20 group of people, those protestors were very hypersensitive
21 to anything that appeared to be people trying to control
22 their behaviour. So, my understanding was that the intent
23 was to appeal to them and hope that they would abide by
24 the agreement as best as possible.

25 MR. CHAMP: Counsel, I'm satisfied if we just note

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13

1 for the record that this affidavit of Mr. Bulford sworn on
2 February 5th is attached as Exhibit A to Ms. Moore's
3 affidavit in this matter. Is that sufficient or would you
4 prefer that it be marked as an exhibit to Mr. Bulford's
5 cross-examination today?

6 MR. MANSON: I think for the sake of good order,
7 Mr. Champ, let's mark it as an exhibit to this
8 examination. I don't know if anything turns on it but I
9 think it would be proper.

10 MR. CHAMP: Okay, that's fine. I will send a copy
11 of that to the court reporter. We will have it marked as
12 Exhibit 1.

13 **EXHIBIT NO. 1:** Copy of affidavit of Mr. Bulford
14 sworn February 5, 2022, attached as Exhibit A to
15 the affidavit of Ms. Moore.

16 38. Q. A small point, Mr. Bulford, paragraph 11 of
17 your affidavit --

18 MR. MANSON: Which affidavit?

19 MR. CHAMP: His current affidavit. Sorry, not the
20 February 5th on. I am done with the February 5th one. I am
21 just talking about the affidavit he has sworn for this
22 motion.

23 39. Q. In the affidavit that you swore on August
24 24th, paragraph 11, in there, Mr. Bulford, you talk about
25 a lot of your concerns about the COVID 19 vaccines.

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14

1 A. Yes.

2 40. Q. And about the impact it was having on your
3 life and your family's personal freedoms.

4 A. Yes.

5 41. Q. You say,

6 We couldn't travel by air to visit family
7 in northern Alberta, which made visiting
8 impossible due to the long driving
9 distances involved.

10 But ultimately, you were able to drive to Ottawa
11 during that period. Is that right?

12 A. No, sir. I was living in the Ottawa area at
13 that time.

14 42. Q. I see, okay. At paragraph 19 of your
15 affidavit, this is a small matter. In the first sentence,
16 "I agree that Freedom Convoy trucks began to arrive in
17 Ottawa around February 28th, 2022". I think you mean
18 January 28, 2022.

19 A. Yes, that's correct. That's a typo.

20 43. Q. No problem. How did you get involved, Mr.
21 Bulford and when, if you can recall?

22 A. At the beginning of my affidavit, I explain
23 that initially I was asked to provide a security detail
24 for former Premier Peckford and many of the doctors and
25 scientists who were going to be speaking at the convoy.

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15

1 And then I think approximately two nights before the
2 convoy arrived in Ottawa, maybe the night of January 25th I
3 think, I was contacted by a personal friend asking for
4 help with volunteer security for the convoy like in
5 general, not just that group of people. And so I went to
6 a meeting the following morning at my friend's house.
7 That's when I first met Mr. Garrah and learned about Adopt
8 A Trucker. And then it kind of just was...

9 44. Q. Not a lot of sleep for the next three weeks.

10 A. Yeah, I just kind of – I dove in because there
11 was a huge amount of people coming to Ottawa and the
12 people that were stepping up to help volunteer, they
13 didn't have my knowledge or experience with large scale
14 events in downtown Ottawa, so I agreed to help.

15 45. Q. The friend wasn't Chris Garrah. Your friend
16 knew Chris Garrah. Is that right?

17 A. yeah, I don't even know how my friend met
18 Chris Garrah. That was my first interaction with Mr.
19 Garrah.

20 46. Q. Your friend, I am not going to ask his name.
21 That person is not named in any of the documents, or he is
22 not named in any of the convoy claim or the Public Order
23 Emergency Commission. He didn't appear there or anything
24 like that?

25 A. No, sir.

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16

1 47. Q. Okay, that's fine. In paragraph 19, you made
2 reference to there was no plan to gridlock downtown
3 Ottawa. There was no such plan. Did you ever hear anyone
4 use that word, "gridlock" in any of those meetings you
5 were at?

6 A. Not in the meetings that I was in but I know
7 that term has come up in alleged remarks by Ms. Lich. I
8 would have been very leery of any plans of such nature,
9 Mr. Champ. I know that that would have been a swift
10 decisive response from the police.

11 48. Q. Mr. Bulford, you told us that you had
12 experience with large scale events in Ottawa in the past.
13 Have you ever been involved in large scale events where
14 there was like hundreds of semi-tractor trucks in the
15 parliamentary precinct like we saw here.

16 A. Not of this scale, no. I was working, I think
17 it was 2019 on the day a previous convoy had come to
18 Ottawa but that wasn't nearly the same size and scale.

19 49. Q. What were some of the differences? So there
20 were more trucks in the 2022 one. Is that right?

21 A. I would say so, yes, from the best of my
22 recollection, yeah, quite a few, way more people, way more
23 let's say pedestrian supporters and obviously the duration
24 of the protest.

25 50. Q. Yes, we had more semi-tractor trucks in 2022

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17

1 and then this time they stayed. They didn't drive through
2 or drive for a day or two or whatever. They stayed for
3 weeks on end. Those two things were significantly
4 different from 2019; correct?

5 A. Yes, I would agree.

6 51. Q. And you would agree that this was causing more
7 disruption to the people that lived in downtown Ottawa
8 than it did in 2019.

9 A. Well, I mean I think it – obviously it was
10 there for a much longer period of time. Although I
11 honestly don't believe that was ever the intention. I
12 don't know why the trucks ended up where they ended up.

13 52. Q. And why they stayed so long.

14 A. Well, the messaging that I had seen prior to
15 the convoy arriving in Ottawa was that the intention was
16 to end the mandates. Honestly, I had no idea how long the
17 protest would go on when it began.

18 53. Q. You understood that people were going to stay
19 until someone from the Federal government spoke to them or
20 the mandates were changed. Is that your understanding?

21 A. Well, yes, I mean that's what I heard people
22 saying.

23 54. Q. I am just going through a couple of things
24 here, Mr. Bulford. I apologize. I should be done in a
25 moment.

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1 A. I honestly don't think the intention was ever
2 to negatively impact the lives of the people of Ottawa,
3 though. My understanding is the intention was always to
4 be seen and heard by the Federal government because people
5 like myself and the truckers have been ignored from every
6 other governing body.

7 55. Q. Mr. Bulford, if it was just people and no
8 trucks, that protest, you would agree with me, would not
9 have caused as much disruption to the people in downtown
10 Ottawa; correct?

11 A. Yes, I think that's fair.

12 MR. CHAMP: Those are all the questions I have. I
13 want to thank you very much for making yourself available
14 to us this afternoon. I appreciate it.

15

16

17 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
18 2:57 IN THE AFTERNOON.

19

20 I HEREBY CERTIFY THAT the foregoing was transcribed
21 to the best of my skill and ability.

22

23

24

.....

25

E.M. GILLESPIE/M.J. AYOTTE, A.C.T.

COURT FILE NO.: CV-22-00088514-00CP

FORM 14E

Courts of Justice Act

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ZEXI LI

Plaintiff

-and-

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING, and
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 and JOHN DOE 60**

Defendants

**AFFIDAVIT OF DANIEL BULFORD
(Sworn February 5, 2022)**

I, **Daniel Bulford**, of City of Ottawa, in the Province of Ontario, MAKE OATH AND
SAY:

1. I have personal knowledge of the facts and matters herein deposed to.

2. I am a recently resigned member of the Royal Canadian Mounted Police (“RCMP”). After 15 years of service, I resigned from the RCMP after publicly speaking opposing the mandates.
3. I am currently working with the Adopt-a-Trucker Volunteer Coordination Center in support of the Freedom Convoy 2022 (“Freedom Convoy”). I am currently working on the ground on logistics, security and safety issues on the ground in Ottawa in support of the Freedom Convoy 2022 (“Freedom Convoy”). I have extensive experience in protective operations for large-scale events in the National Capital Region.
4. I have been involved in tactical planning for many of the large-scale events. I am keenly familiar with what is happening regarding the police presence down around Parliament Hill in the downtown area.
5. I have been working closely with the Ottawa Police Service, the RCMP, and the Parliamentary Protective Service. I have been liaising with them since early last week. Any information that I have received related to any public safety concerns has been immediately forwarded to the respective police service.
6. The safety of the trucker, the Ottawa public, the police, and the first responders is of paramount concern to the Freedom Convoy.
7. On the night of February 1, 2022, I received a complaint from the area of Rideau and Sussex about honking through the night. The caller was supportive of the Freedom Convoy. He said that most of residences in his area were vacant, but he wanted to convey his concern about some elderly residents. I explained that the Freedom Convoy leadership had agreed upon the following schedule out of respect for such concerns:

- a. Coordinated unified honk every half an hour for 1 minute, between the hours of 08:00 a.m. and 08:00 p.m., followed by silence between the hours of 08:00 p.m. to 08:00 a.m.
8. I confirmed this schedule in the days following with two separate truck drivers, who advised that during daytime hours, after the coordinated one-minute honk, was up to 10 minutes of distress (S.O.S.) honking signal. Both drivers confirmed that the silent hours between 08:00 p.m. and 08:00 a.m. was still in effect.
9. My primary concern is individuals or groups with potential to deliberately instigate conflict with the Freedom Convoy movement and to discredit the Freedom Convoy. We have seen circulating messaging in the media and social media about people associated with the Freedom Convoy being arrested and charged.
10. I have heard from very reliable sources that people from the movement were not associated with that. Offences related to property damage and just an assault, committed by agitators, were witnessed. This was reported to the police by one of the truckers and one of our volunteer security personnel, and which was ultimately handled by the Ottawa Police Service.
11. What I have seen with my own eyes, on the odd break that I get, are truckers and support of the movement feeding the homeless on Wellington Street and filling their backpacks with food. Truckers have taken a whole trailer full of food to the homeless shelter.
12. I have seen the truckers maintaining the cleanliness of city streets, including picking up discarded masks on the ground, centralized garbage collection, shoveling snow at the War Memorial and the Terry Fox statue, and decorating and providing security for the War

and

Plaintiff (Moving Party)

Defendants (Responding Parties)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**AFFIDAVIT OF
DANIEL BULFORD**

**JUSTICE CENTRE FOR
CONSTITUTIONAL FREEDOMS**

#253, 7620 Elbow Drive S.W.

Calgary, Alberta T2V 1K2

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**Counsel for the Defendants, Chris Barber, Benjamin
Dichter and Tamara Lich**

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INDEX

NAME OF WITNESS: DALE ENNS

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 22

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

(NONE ENTERED)

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 DALE ENNS, AFFIRMED:

2 CROSS-EXAMINATION BY MR. CHAMP:

3 MR. CHAMP: This is Paul Champ for the plaintiffs
4 in Court File No. CV-22-00088514. We are here for the
5 cross-examination of the affidavit of Dale Enns, sworn on
6 August 18th, 2023.

7 1. Q. Mr. Enns, you have your affidavit with you.

8 A. Yes, I do.

9 MR. CHAMP: Okay. Hatim or James, I'm not sure if
10 you want to make your Evidence Act on the record.

11 MR. MANSON: Yes, thank you, counsel. Just for
12 the record, and out of an abundance of caution, my client,
13 Mr. Enns, has instructed me to invoke on his behalf the
14 protections of Section 13 of the Charter of Rights,
15 Section 5.2 of the *Canada Evidence Act*, Section 9.2 of the
16 *Ontario Evidence Act* and all corresponding provisions of
17 the evidence acts of other provinces. Mr. Enns, could
18 you confirm for us that those are, in fact, your
19 instructions?

20 THE WITNESS: Yes, they are.

21 MR. MANSON: Thank you.

22 MR. CHAMP: Okay, great.

23 2. Q. Mr. Enns, I am going to try to be as efficient
24 as I can and get you out of here in about a half an hour
25 or so. I am going to first ask some questions about

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3

1 paragraph 19 of your affidavit and you talk about that you
2 acted in a limited manner as a road captain, meaning that
3 you helped organize from Manitoba that joined the main
4 convoy. How did you learn about the Freedom Convoy and
5 how did you come to become a road captain?

6 A. I learned about it through Joe Janzen
7 actually. He asked me if I wanted to be a road captain
8 and I agreed.

9 3. Q. Okay. Did he connect you with anyone else,
10 any of the organizers like Ms. Lich or Mr. Barber?

11 A. Mr. Barber at the time.

12 4. Q. What information did Mr. Barber share with you
13 at that time about what he was hoping you could do in
14 terms of organizing folks to go on the convoy?

15 A. It was basically just telling everybody where
16 to meet, when and all that.

17 5. Q. And were you asked to try to collect or gather
18 information about the people who were joining the convoy
19 from your area?

20 A. No, the only thing I did was sign a couple of
21 registration forms and that was it.

22 6. Q. That was one of the things I had asked, Mr.
23 Enns in the notice of examination that I sent out. I had
24 asked if you had any copies of your registration form or
25 any other registration forms in your possession. Do you

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1 have those, sir?

2 A. No.

3 MR. CHAMP: Counsel, do you have an answer for
4 that, being able to produce those or should I just keep
5 examining him on that?

6 MR. MANSON: No, you can ask him and he will
7 explain why. I think that's probably the way to go.

8 MR. CHAMP: Okay, that's fine.

9 7. Q. Mr. Enns, you were telling me about a
10 registration form. You filled in a registration form of
11 some kind that you received.

12 A. I filled one out for myself, yeah.

13 8. Q. Okay. And then where did you send it?

14 A. I kept it until after the convoy was over and
15 then I threw it in the garbage.

16 9. Q. Did you take a photograph of it and send it to
17 anyone?

18 A. No.

19 10. Q. How did get the blank registration form?

20 A. It was emailed to me, just a blank.

21 11. Q. Who was it that emailed it to you?

22 A. I can't remember.

23 12. Q. Was it Mr. Barber? Was it Ms. Lich?

24 A. I think it was Tamara, Mrs. Lich.

25 13. Q. Did you forward it on to anyone else who you

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5

1 were driving with?

2 A. No.

3 14. Q. The other people you were driving with, did
4 you advise them that Ms. Lich and/or Mr. Barber wanted
5 them to fill in registration forms?

6 A. Yeah.

7 15. Q. How did those people make the connection to
8 get their registration forms?

9 A. They went onto the website at the time.

10 16. Q. You understood that one of the purposes of the
11 registration form was to try to see you getting some
12 reimbursement for your expenses when this was over.

13 A. If possible.

14 17. Q. That was your understanding of the purpose.

15 A. Yeah.

16 18. Q. To help offset your expenses in driving there,
17 your gas and your food and so forth.

18 A. Yeah, but I didn't look for any reimbursements
19 at all, myself.

20 19. Q. Afterwards.

21 A. No.

22 20. Q. When did you say you destroyed your
23 registration form?

24 A. Shortly after I got back from Ottawa.

25 21. Q. After you drove back, I gather.

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1 A. Yeah.

2 22. Q. And so by that date, you would have understood
3 though, Mr. Enns, you were being sued in this action;
4 correct?

5 A. No.

6 23. Q. The claim was amended to add your name on
7 February 18th, 2022. When did you learn that you were
8 named as a defendant in this action?

9 A. It would have been the beginning of March.

10 24. Q. Who did you hear that from?

11 A. I think Mr. Barber.

12 25. Q. Did you ever have occasion to speak with Mr.
13 Wilson or Ms. Chipiuk?

14 A. No, I didn't really much, no.

15 26. Q. When Mr. Barber communicated that to you, what
16 did he say at that time?

17 A. He just said that we were having a lawsuit and
18 my name was mentioned.

19 27. Q. Did he provide you with a copy of the claim at
20 that time?

21 A. No.

22 28. Q. Did you ask for a copy of the claim?

23 A. No.

24 29. Q. When did you receive a copy of the claim?

25 A. I don't know the exact date.

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7

1 30. Q. All right. I'm just taking a couple of steps
2 back. I was asking you about you becoming a road captain
3 travelling to Ottawa, et cetera. You were aware at that
4 time that there was millions of dollars being raised to
5 help support the expenses of the truckers travelling to
6 Ottawa.

7 A. Yep.

8 31. Q. You did drive a tractor-trailer truck to
9 Ottawa; correct?

10 A. Yes, I did. I had a load for Ottawa.

11 32. Q. What kind of truck did you drive? What was
12 it?

13 A. A Peterbilt.

14 33. Q. What is the colour?

15 A. Yellow.

16 34. Q. What is your licence for that truck?

17 A. I can't remember what the plate number was.
18 It has changed since then.

19 35. Q. Why did you change your plate number?

20 A. Because I started working for CB Trucking.

21 36. Q. That's Chris Barber.

22 A. Yeah.

23 37. Q. Did you work for Mr. Barber before the Freedom
24 Convoy?

25 A. No.

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1 38. Q. When you got to Ottawa with your tractor-
2 trailer truck, where did you park it?

3 A. I parked it on the SJAM.

4 39. Q. Sir John A. MacDonald Parkway.

5 A. Yeah.

6 40. Q. Was it there for the entirety of the protest
7 or did you move it?

8 A. I moved it a week after we got there.

9 41. Q. And where did you move it to?

10 A. I took it out to 88.

11 42. Q. Yard 88?

12 A. Yeah.

13 43. Q. Why did you do that?

14 A. Because I was in a hotel so I couldn't watch
15 it.

16 44. Q. Why did you leave it there for a week then if
17 you weren't staying in it?

18 A. Because I didn't know of 88 at the time.

19 45. Q. Having your tractor-trailer parked close
20 downtown, there were a lot of other trucks around your
21 truck, I gather.

22 A. There were some, yeah.

23 46. Q. The tractor-trailer trucks, it was a bit of
24 symbol or a message to the Federal government; right?

25 A. Yeah.

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1 47. Q. Mr. Enns, are you saying you were never
2 reimbursed for any of your expenses while you were in
3 Ottawa?

4 A. No.

5 48. Q. Were you paying for your hotel room or was
6 someone else paying for that?

7 A. That was covered by somebody else.

8 49. Q. Who was that? Do you know?

9 A. I have no idea. All I know is I was told my
10 room was covered.

11 50. Q. Who told you that?

12 A. It would have been Ms. Lich at the time.

13 51. Q. How long did you plan to stay in Ottawa, Mr.
14 Enns?

15 A. I did not know how long. I was staying until
16 the end.

17 52. Q. The end would be when Ottawa dropped the
18 mandates.

19 A. Yeah.

20 53. Q. In a few spots in your affidavit, like
21 paragraph 11, you speak about daily meetings that you
22 would attend. Where were these meetings held?

23 A. The meeting that I went to was at the Arc.

24 54. Q. Did you go to other hotels for meetings
25 sometimes?

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10

1 A. No, more or less just the Arc.

2 55. Q. And which hotel were you staying in?

3 A. The Sheraton.

4 56. Q. How frequent were those meetings at the Arc?

5 A. They were every day but I didn't attend every
6 day.

7 57. Q. Was there a pre-set time they would meet every
8 day?

9 A. I usually went there in the morning for coffee
10 and if there was a meeting, I would stick around. If
11 there wasn't, I was gone.

12 58. Q. So this was like a conference room that was
13 rented in the Arc or something like that.

14 A. Yeah.

15 59. Q. Who else would be at these meetings?

16 A. Various different block captains.

17 60. Q. You weren't a block captain though.

18 A. No.

19 61. Q. And that's because you were staying in a hotel
20 and not in the truck on the streets. Is that right?

21 A. Yeah.

22 62. Q. So there would be block captains. Who else
23 would you see at the Arc Hotel in these meetings?

24 A. There were many people in there.

25 63. Q. Who was the person or persons that you can

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1 recall that would run the meetings, to the best of your
2 recollection?

3 A. It varied between different people.

4 64. Q. Who were some of those people?

5 A. There was Mr. Barber sometimes. Mrs. Lich was
6 sometimes; depending on who had something to say.

7 65. Q. Mr. Marazzo?

8 A. He was in them, yes.

9 66. Q. Mr. Bulford?

10 A. The odd one.

11 67. Q. When Chris Barber or Tamara Lich was talking,
12 what kind of information would they be sharing with you?
13 What were the kinds of things you guys would talk about in
14 these meetings?

15 A. It varied.

16 68. Q. Varied between what? What were the topics
17 that were discussed

18 A. Logistics, fuel, basic stuff around Ottawa,
19 keeping emergency lanes opened.

20 69. Q. There was a large number of trucks in
21 downtown; right?

22 A. Yeah.

23 70. Q. And you guys were making efforts to keep
24 emergency lanes open. Is that what you are telling me?

25 A. Yes.

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1 71. Q. That was a regular issue or matter to be
2 discussed every day ensuring that the emergency lanes were
3 open.

4 A. That was always top priority.

5 72. Q. It remained an ongoing issue or challenge to
6 ensure those lanes were open. Is that right?

7 A. I never found it to be a challenge. We would
8 just make sure they were open.

9 73. Q. Were you at any meetings where the horn
10 injunction was discussed?

11 A. One, yes.

12 74. Q. What is your recollection of what was
13 discussed at that time?

14 A. That there was supposed to be no horns.

15 75. Q. Who was saying that? Who did you hear that
16 from?

17 A. I think Mr. Wilson.

18 76. Q. Mr. Enns, the horn injunction motion was
19 initiated on Friday, February 4th. There were some
20 arguments in the court on Saturday, February 5th and there
21 were further arguments on Monday, February 7th, and at the
22 end of that, there was an order. Were you part of any
23 meetings before the horn injunction was issued? Were you
24 part of a meeting with Mr. Wilson or others talking about
25 the injunction or the motion for an injunction before it

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1 was issued?

2 A. No.

3 MR. MANSON: I think we may be trenching on
4 privileged information, counsel. I just want to be
5 cautious about that.

6 MR. CHAMP: In what way, sorry?

7 MR. MANSON: I'm not sure but if Mr. Enns was Mr.
8 Wilson's client then that could be problematic.

9 MR. CHAMP:

10 77. Q. In the meeting, Mr. Enns, when Mr. Wilson
11 there, was he providing legal advice?

12 A. Yes.

13 78. Q. And you were among the group of people to whom
14 he was giving legal advice to?

15 A. Yes.

16 79. Q. Okay, that's fine. I can accept that. I
17 won't ask you what he was saying but can you tell me who
18 else was in the room to your recollection when he was
19 providing that advice?

20 A. There were many people. I don't know who was
21 all in there. I won't speculate on who was all there.

22 80. Q. Was Mr. Barber there?

23 A. He could be.

24 81. Q. Was Ms. Lich there?

25 A. I can't really remember whether she was there

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14

1 or he was there, or not.

2 82. Q. Was Mr. Bulford there?

3 A. Like I say, I can't remember who all was
4 there.

5 83. Q. You can't remember at all.

6 A. No.

7 84. Q. Where was it? Was it at the Arc Hotel?

8 A. I believe so.

9 MR. MANSON: I'm sorry, Mr. Champ. I hate to
10 interject but I'm just not entire clear right now. Are we
11 talking about a meeting that happened with Mr. Wilson
12 present before the injunction happened. We haven't
13 established the date yet. Is that right?

14 MR. CHAMP: You are correct.

15 85. Q. Mr. Enns, this meeting where Mr. Wilson was
16 present, do you recall if that was before the injunction
17 was issued or after?

18 A. I think it was after but I can't remember the
19 exact date.

20 86. Q. Do you recall being in many meetings with Mr.
21 Wilson?

22 A. Some.

23 87. Q. How frequently would you think?

24 A. Once or twice.

25 88. Q. So more than once because you have said some.

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15

1 So you have some recollection of more than once.

2 A. Yeah.

3 89. Q. Paragraph 12 of your affidavit, you say there
4 that you would walk around the protest area and speak to
5 the truckers and asked if they needed anything. You say,
6 "I would also assist in delivering supplies to those who
7 did need something and others of that nature". What kind
8 of supplies would you provide to people?

9 A. Basic supplies, fuel or oil for their engines
10 or whatever they needed, sometimes a shower.

11 90. Q. Where would you get those supplies from?

12 A. Usually from the guys that were delivering the
13 fuel.

14 91. Q. Who were those guys?

15 A. I don't know their names. I knew who they
16 were to see them but that's it.

17 92. Q. You didn't know any first names even.

18 A. No.

19 93. Q. Who was paying for the fuel, to your knowledge
20 or understanding?

21 A. I have no idea.

22 94. Q. Or to your understanding.

23 A. I do not know who was paying for the fuel.

24 95. Q. Who would you call or contact to get fuel or
25 other supplies for a trucker?

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16

1 A. There was a list of phone numbers for us to
2 phone.

3 96. Q. Did you receive that by an email or a text,
4 that list of numbers?

5 A. I got them on a printed out sheet.

6 97. Q. How gave that to you? Did you get that at the
7 Arc hotel, I guess?

8 A. Yeah, they were at the Arc.

9 98. Q. Who was the administrative person, liking
10 handing out sheets of paper and information like that?

11 A. I have no idea.

12 99. Q. Who gave the paper to you, sir?

13 A. It was on a desk.

14 100. Q. It was just on a desk, okay. And it had
15 hotlines and stuff like that on it or whatever.

16 A. Yeah.

17 101. Q. When you drove from Manitoba, you said you
18 completed a registration form. You weren't responsible
19 for collecting the registration forms of others.

20 A. No.

21 102. Q. Is it possible, Mr. Enns, that you did collect
22 the forms of other but you just don't want to tell me
23 because you don't want to give me names of other people,
24 because you don't want to give up people who you know?

25 A. No.

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17

1 103. Q. Mr. Enns, you say in your affidavit at
2 paragraph 30, you deny that there was anything illegal but
3 you would agree with me that parking a large vehicle on a
4 street and just leaving it there, that's no doubt in
5 violation of bylaws or Highway Traffic legislation.

6 MR. MANSON: I think that's a legal
7 interpretation, counsel. As minor as that may be, I
8 believe that's the case. So I think the witness won't
9 answer that question.

10 MR. CHAMP: Well, the only problem, counsel, is
11 that it's this witness that says that none of the
12 activities were in any way illegal. That's his affidavit.

13 MR. MANSON: Okay, he is denying it. I mean he is
14 not a lawyer though; right? I mean if we are going to
15 argue about whether parking is illegal during a protest,
16 then you and I will do that before the judge.

17 MR. CHAMP: So you can answer for him, if you
18 want, Mr. Manson. Is essentially what he is saying here
19 is that yes, there may be bylaws and Highway Traffic
20 legislation that prohibits people from parking on streets
21 or honking horns but if it's for the purpose of a protest,
22 it's not illegal? Is that what he means by that
23 paragraph?

24 MR. MANSON: No, I'm not going to give evidence
25 for the witness. But I am not also going to let the

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1 witness answer a legal question. So I don't know what to
2 say --

3 MR. CHAMP: I didn't draft the affidavit. He did.
4 He swore this affidavit.

5 MR. MANSON: Yes.

6 MR. CHAMP:

7 104. Q. Mr. Enns, do you have a special licence to
8 drive your tractor trailer?

9 A. Yes.

10 105. Q. What's it called in Manitoba?

11 A. A Class 1.

12 106. Q. When you drive on the highway there is a speed
13 limit you shouldn't drive, over 100 kilometres an hour.

14 A. Yes.

15 107. Q. With your tractor-trailers, when you drive
16 into some cities, you are aware that there are some areas
17 of the city you are not even allowed to take a tractor-
18 trailer; correct?

19 A. Yeah.

20 108. Q. You being an experienced truck driver you
21 would look into those kinds of issues when you are doing
22 your job and you would know before you got to the city
23 where you can or can't drive, I presume.

24 A. Yes.

25 109. Q. Because you understand there are bylaws and so

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19

1 forth that prohibit you from driving in certain areas.

2 A. Yes.

3 110. Q. And similarly, Mr. Enns, in particular with a
4 tractor-trailer, you can't just park it anywhere. There
5 would be different bylaws and so forth that prohibits you
6 from parking it anywhere.

7 A. As long as it is not a truck route.

8 111. Q. Right. With your class of licence, is there
9 any further training or anything that you have around the
10 type of air horns that you have with your tractor-trailer?

11 A. Yes.

12 112. Q. What are the things you are taught around the
13 use of the air horn on your tractor-trailer?

14 A. It has to work for a safety.

15 113. Q. So it has to work. Presumably it is not to be
16 used unnecessarily.

17 A. I've never read that.

18 114. Q. Or when it's used, are you taught to just do
19 three quick honks or is there anything like that for a
20 trucker about how you are supposed to use it to warn
21 someone?

22 A. There is nothing like that.

23 115. Q. You know that your air horn obviously is much
24 louder than the horn in regular vehicles.

25 A. I wouldn't say that.

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1 116. Q. Oh come on, really?

2 A. No.

3 117. Q. So an air horn on a semi-tractor truck, you
4 are telling me it's the same as the horn in anyone else's
5 car. That's what you are trying to tell me, Mr. Enns?

6 A. I've seen air horns on pickups. I've seen air
7 horns on cars.

8 118. Q. But those are custom, are they not?

9 A. That may be.

10 119. Q. Mr. Enns, you understand you are under oath
11 here, sir.

12 A. Yes.

13 120. Q. And so under oath you are telling me that the
14 air horns in semi-tractor trucks are the same as normal
15 horns on vehicles.

16 A. Like I say, I have seen air horns on pickup
17 trucks.

18 121. Q. That's not my question, sir. Does your family
19 have other vehicles?

20 A. Yeah.

21 122. Q. What are the other vehicles you have?

22 A. A pickup truck.

23 123. Q. And?

24 A. That's it.

25 124. Q. Are you married? Do you have a spouse?

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1 A. Yeah.

2 125. Q. Does that person have a vehicle?

3 A. No.

4 126. Q. So the family doesn't have any vehicles other
5 than your pickup truck.

6 A. Just the one vehicle.

7 127. Q. Just the pickup. Does your pickup have an air
8 horn?

9 A. No.

10 128. Q. Is the air horn on your semi-tractor truck
11 much louder than the horn on your pickup?

12 A. Yeah.

13 MR. MANSON: Thank you, Mr. Enns. I have no
14 further questions for you.

15

16

17 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
18 1:58 IN THE AFTERNOON.

19

20 I HEREBY CERTIFY THAT the foregoing was transcribed
21 to the best of my skill and ability.

22

23

24

.....

25

E.M. GILLESPIE/M.J. AYOTTE, A.C.T.

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(i)

INDEX

NAME OF WITNESS: MIRANDA GASIOR

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 20

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

(NONE ENTERED)

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 **MIRANDA GASIOR, AFFIRMED:**

2 **CROSS-EXAMINATION BY MR. CHAMP:**

3 MR. CHAMP: Good afternoon, Ms. Gasior. My name
4 is Paul Champ. I am the counsel for the plaintiffs here
5 and I just have some questions for you on your affidavit.
6 We are on the record here on September 15th, 2023 in Court
7 File No. CV-22-00088514, for the cross-examination of the
8 affidavit of Miranda Gasior affirmed on August 21st, 2023.

9 1. Q. Ms. Gasior, do you have a copy of your
10 affidavit with you?

11 A. Yes.

12 MR. CHAMP: Before I ask any questions, counsel,
13 I'm not sure if you want to go for the Evidence Act.

14 MR. MANSON: Yes, thank you, Mr. Champ. Just for
15 the record, and out of an abundance of caution, Ms. Gasior
16 has instructed me to invoke on her behalf the protections
17 of Section 13 of the Charter of Rights, Section 5.2 of the
18 *Canada Evidence Act*, Section 9.2 of the *Ontario Evidence*
19 *Act* and all corresponding provisions of the evidence acts
20 of other provinces. Ms. Gasior, can you confirm to me
21 that that is your instruction?

22 THE WITNESS: Yes, sir.

23 MR. MANSON: Thank you.

24 MR. CHAMP:

25 2. Q. Ms. Gasior, do you have a copy of your

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1 affidavit with you?

2 A. Yes.

3 3. Q. I am going to ask you some questions first of
4 all about paragraph 5. And I understand that you are not
5 a trucker. You don't drive a semi-tractor trailer. You
6 drove a different kind of vehicle. But you were a road
7 captain during the trip to Ottawa.

8 A. Yes.

9 4. Q. How did you come to learn about the Freedom
10 Convoy to Ottawa?

11 A. Social media.

12 5. Q. Can you recall which ones?

13 A. There was so many that one specific doesn't
14 really stick out.

15 6. Q. Fair enough. How did you come to become a
16 road captain?

17 A. I volunteered to lead trucks from
18 Lloydminster.

19 7. Q. Who asked you or who did you tell that you
20 were volunteering to take on that task?

21 A. Nobody asked and nobody told me.

22 8. Q. Who did you communicate to that you were a
23 road captain? Who were you coordinating or communicating
24 with about the rest of the convoy?

25 A. I didn't really relay that to anybody

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1 specifically. I just did that within my own community and
2 posted it on social media.

3 9. Q. Did you have contact with Chris Barber at that
4 time?

5 A. No.

6 10. Q. Or Pat King?

7 A. Yes.

8 11. Q. It would have been some of his social media,
9 that's in part of how you found out about the Freedom
10 Convoy.

11 A. Yeah, possibly.

12 12. Q. Did you communicate to Mr. King that you were
13 going to be a road captain for your area around
14 Lloydminster?

15 A. Yes.

16 13. Q. Where did you learn or how did you learn where
17 you could connect up with the convoy, your convoy from
18 Lloydminster with the larger convoy?

19 A. Just by social media posts of other people
20 that were labelling where they were going to be along the
21 route.

22 14. Q. As road captain, did you know that there was
23 money being that was being raised to assist with the
24 expenses for people travelling to Ottawa?

25 A. Yes.

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1 15. Q. You would have seen that on social media too,
2 I gather.

3 A. Yes.

4 16. Q. Stuff like the GoFundMe page and so forth.

5 A. Yes.

6 17. Q. Were you asked to fill out a registration form
7 of any kind to get reimbursement for your expenses?

8 A. No.

9 18. Q. You are aware there was a registration form to
10 fill out to get reimbursed for your expenses.

11 A. I was aware there was a registration form,
12 yes.

13 19. Q. Did you ever get one?

14 A. No.

15 20. Q. Some of the people that you were organizing to
16 travel from Lloyminster, did they ask you for information
17 about that registration form?

18 A. No.

19 21. Q. Why did you never fill in a registration form?

20 A. I just never got to it.

21 22. Q. You weren't interested in being reimbursed.

22 A. Nope.

23 23. Q. In the notice of examination, Ms. Gasior, I
24 asked if you could produce copies of your Facebook posts
25 requesting or directing that donations be made to

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6

1 GiveSendGo. Do you have copies of those posts?

2 A. I have one video, at the end of the video I
3 said there was a new donation platform, yes.

4 24. Q. If you go to paragraph 16 of your affidavit,
5 it says,

6 I had a minor amount of activity with
7 respect to fundraising. I would ask
8 people who I had met in the street who
9 inquired about donating to please donate
10 to GiveSendGo fundraiser since the
11 GoFundMe fundraiser had been suspended. I
12 also posted a few Facebook posts to
13 similar effect.

14 It's just that last bit. Facebook posts, that
15 suggests to me that you were putting up some written
16 information about it.

17 A. If I had put up written information about it,
18 it is no longer there.

19 25. Q. So what did you have in mind then when you
20 were saying that you posted a few Facebook posts to
21 similar effect? That you posted them but that you deleted
22 them.

23 A. I may have deleted them or they may have been
24 deleted. I noticed on my Facebook wall when I was
25 searching that there is a lot of posts that say this

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1 content is no longer available. So when or how they were
2 deleted I'm not 100 percent sure.

3 26. Q. All Facebook posts that you would have had
4 with respect to the fundraisers are now all deleted one
5 way or another.

6 A. Written posts, yes.

7 27. Q. What kind of information were you putting in
8 those written posts?

9 A. Just that there was the GiveSendGo donation
10 now and that the GoFundMe had been shut down.

11 28. Q. I will come back to that. Actually, so on
12 that, you ended up becoming a director of the Freedom
13 Corporation. Is that right, Ms. Gasior?

14 A. Freedom 2022, yes.

15 29. Q. What was the purpose of Freedom 2022
16 Corporation?

17 A. To provide transparency to the public for the
18 GiveSendGo or GoFundMe donations, the financials.

19 30. Q. So you were, in part, involved with the
20 fundraising to that extent.

21 A. I was a director on that board, yes.

22 31. Q. Who invited you or asked you to be a director
23 on that board?

24 A. I think I volunteered.

25 32. Q. You had volunteered at a meeting of some kind,

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1 I guess.

2 A. Not that I can recall. I think it was just
3 the need was there and I just stepped up to volunteer to
4 help.

5 33. Q. Who was asking for volunteers? Do you recall?

6 A. No, I don't.

7 34. Q. So you don't remember how it came about that
8 you were asked to become a director of a corporation.

9 A. No.

10 35. Q. You did attend organizing meetings though when
11 you were in Ottawa.

12 A. I attended meetings of a nature to which we
13 discussed how things were going. I don't know if I would
14 say organized.

15 36. Q. Where would those meetings be held, at hotels?

16 A. Yeah, at different hotels.

17 37. Q. What were some of the hotels?

18 A. The Arc, the Sheraton.

19 38. Q. The Swiss Hotel also?

20 A. I had only been at the Swiss at one time.

21 39. Q. Do you know why there were different meetings
22 in different hotels? Were some hotels dealing with
23 different issues or anything like that?

24 A. Not to my knowledge, no, and I have no idea
25 why.

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1 40. Q. At the Arc Hotel, block captains would come to
2 the meetings there; correct?

3 A. Yes.

4 41. Q. But the block captains typically wouldn't go
5 to meetings at the Sheraton or the Swiss; correct?

6 A. I don't believe so.

7 42. Q. So the Arc Hotel was the main hub for the
8 direct truckers on the street. Is that fair to say?

9 A. The Arc was the hub for all information, sure.

10 43. Q. And then other types of planning or
11 discussions on other issues would take place at the
12 Sheraton or the Swiss Hotel. Was that your experience?

13 A. There was no set agendas; this was discussed
14 here; that was discussed there.

15 44. Q. Do you remember where it was discussed
16 creating the Freedom 2022 Corporation?

17 A. I believe that was at the Arc.

18 45. Q. Were the lawyers there? Was Mr. Wilson there
19 and Ms. Chipiuk?

20 A. No.

21 46. Q. Who was it that was suggesting you guys create
22 a corporation? Do you recall?

23 A. Chad Eros.

24 47. Q. In your affidavit, Ms. Gasior, you talk about
25 that you would walk around the streets to sort of check on

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1 people, check on truckers, how things were going.

2 A. It was primarily at night, yeah.

3 48. Q. Because a lot of people were staying in their
4 trucks at night.

5 A. A few, yeah.

6 49. Q. It was very cold. It was pretty bitterly cold
7 during that time you guys were in Ottawa.

8 A. Yeah, some days.

9 50. Q. Some trucks were idling at times to keep the
10 occupants warm. You observed that.

11 A. I didn't observe a lot of that at night, no.
12 Especially in the middle of the night, I did not see that.

13 51. Q. You would see the trucks idle at times though;
14 correct?

15 A. Yes, at times, yes.

16 52. Q. In paragraph 14 of your affidavit, you talk
17 about a hotline.

18 A. Yeah.

19 53. Q. You were one of the people who would answer
20 the hotline.

21 A. I was the only one, yeah.

22 54. Q. The calls were routed to your phone.

23 A. Yeah.

24 55. Q. Who did that? Do you know who arranged for
25 that --

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11

1 A. Chris Garrah set that up.

2 56. Q. Who was that?

3 A. Chris Garrah.

4 57. Q. Did you know Mr. Garrah before you arrived in
5 Ottawa?

6 A. No.

7 58. Q. So early in your arrival in Ottawa, at one of
8 these meetings I gather, someone was asking for a
9 volunteer to do that and you agreed to do that. Is that
10 what sort of happened?

11 A. Yes.

12 59. Q. Then when you would get requests for things
13 like food, transportation, fuel, shelter, and other
14 similar things, who would you communicate those needs to?

15 A. Oh, all sorts of different people, anyone I
16 thought at the time that I had heard might be doing that
17 type of a volunteer job.

18 60. Q. So for fuel for example, who would you contact
19 for fuel typically?

20 A. Oh goodness, one of the gentleman's names, I
21 just knew him as Scooby and had his cell phone number.
22 Another gentleman I knew, oh goodness what was his name,
23 long beard? Oh my gosh, I can't remember him. I can't
24 remember his name. I'm sorry.

25 61. Q. These different phone numbers, you had a sheet

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12

1 I gather with a bunch of different names and phone numbers
2 on it. Is that right?

3 A. Yeah.

4 62. Q. And that was distributed at some point during
5 the course of the protest.

6 A. It was something that I made. I made the list
7 of phone numbers from text messages with people when I
8 would reach out and ask does anyone know someone who can
9 do this.

10 63. Q. It's my understanding there was a list of
11 contact names for different things and that list was
12 printed out and given out to some folks like yourself at
13 the Arc Hotel. Do you recall that?

14 A. I was never given that list.

15 64. Q. You created your own list.

16 A. Yes.

17 65. Q. You say at paragraph 17, that you did attend
18 daily meetings and I have already asked you about where.
19 Who else would be at those meetings? Were you at meetings
20 where Chris Barber and Tamara Lich were present?

21 A. Yes.

22 66. Q. Pat King?

23 A. Yeah, maybe one or two.

24 67. Q. Brigitte Belton?

25 A. Yes.

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13

1 68. Q. Dan Bulford or Danny Bulford?

2 A. Yes.

3 69. Q. Dale Enns?

4 A. Yes.

5 70. Q. Chad Eros?

6 A. Yes.

7 71. Q. Chris Garrah?

8 A. Yes.

9 72. Q. How about Joe Janzen?

10 A. Yes.

11 73. Q. How about Jason Laface?

12 A. No.

13 74. Q. Was he kind of a fringe character in this, or
14 did you ever meet him?

15 A. I think I met him a couple of times. There
16 were so many names flying around all the time. Maybe I
17 would say yeah, I talked to him a few times.

18 75. Q. But you don't recall him in particular at any
19 of the meetings.

20 A. Not off the top of my head.

21 76. Q. That's fine. But Tom Marazzo, you would have
22 seen him at meetings.

23 A. Yes.

24 77. Q. Sean Tiessen? Well, I think you said you used
25 to walk around a bit with Sean Tiessen. Is that right?

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14

1 A. Yeah, Tiessen, yeah. There was many, many
2 beyond that and it was always every changing. It was
3 never the same at the same meetings and stuff. Like you
4 could rattle off a hundred names so...

5 78. Q. It was an adventure.

6 A. It was needed.

7 79. Q. When were you and the other protesters
8 planning to leave Ottawa?

9 A. I would say I can't speak for other
10 protestors. For me, I was willing to leave Ottawa when
11 the government was willing to have a conversation, just
12 say hey, we hear you and we'll work on things, like let's
13 work together. That would be my end goal for me.

14 80. Q. We made reference in the claim to a Facebook
15 page we understood was yours, Saskatchewan Citizens
16 Uncensored, but you are saying that that's not yours. Is
17 that right?

18 A. That would be correct.

19 81. Q. Do you know who maintains that Facebook page?

20 A. Not a clue.

21 82. Q. What is your Facebook page called?

22 A. I don't have one.

23 83. Q. You used to have one though.

24 A. No, I don't believe so.

25 84. Q. Weren't we just talking earlier about Facebook

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1 posts?

2 A. Yeah, on my personal Facebook.

3 85. Q. Okay, just your personal Facebook.

4 A. Yes.

5 86. Q. Did you get reimbursed for any of your
6 expenses, Ms. Gasior?

7 A. No.

8 87. Q. You stayed in a hotel while you were there.

9 A. Yes.

10 88. Q. You didn't pay for your hotel though, I
11 gather.

12 A. Yes, I did.

13 89. Q. You paid your own hotel.

14 A. For most of my hotel, yeah.

15 90. Q. Okay. And you never got any reimbursement for
16 that.

17 A. No.

18 91. Q. When you were in Ottawa in the Freedom Convoy
19 protest, it was your expectation that you would get
20 reimbursed for those expenses. Is that fair?

21 A. I didn't have any expectation of that.

22 92. Q. You were a director of Freedom 2022
23 Corporation; right?

24 A. Yes.

25 93. Q. And there was over \$10 million raised through

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16

1 GiveSendGo for that fundraising campaign.

2 A. I believe so that's the number.

3 94. Q. And the purpose of those funds was in part to
4 reimburse convoy protestors who incurred expenses.

5 A. No, truckers.

6 95. Q. Truckers. And because you didn't drive a
7 semi-tractor truck, you didn't think you would --

8 A. It never crossed my mind.

9 96. Q. It never crossed your mind, okay. There was a
10 lot of money raised on the street during the Freedom
11 Convoy protest, was there not?

12 A. I believe so but I don't have hands-on
13 knowledge of it.

14 97. Q. You weren't at any of the meetings where they
15 were talking about all the money they raised in cash off
16 the street.

17 A. No. I never heard numbers.

18 98. Q. Or that there was a coordinated effort to get
19 rid of all the cash, that some of the organizing people
20 went out with a bunch of cash on them to give out to
21 people on the street. Did you know about that?

22 A. I did hear that cash went out to truckers,
23 yes.

24 99. Q. But you weren't part of that.

25 A. No.

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17

1 100. Q. There was no discussion about that in any of
2 those Freedom 2022 Corporation meetings.

3 A. Not that I attended.

4 101. Q. Some of the meetings that you attended Keith
5 Wilson and Eva Chipiuk would be there.

6 A. Yes, some of them, yes.

7 102. Q. And they would provide advice and information
8 to the group.

9 A. Not that I really recall, sorry. Not that I
10 really recall.

11 103. Q. What about the horn injunction? Were you at
12 meetings where that was discussed?

13 A. Yes.

14 104. Q. Do you recall if you were part of meetings
15 before the horn injunction was issued? We started that
16 motion on Friday, February 4th. We were in court for a
17 little while on Saturday, February 5th and then in court
18 again on Monday, February 7th, where the judge then at the
19 end of that hearing issued it. Were you part of any
20 meetings before the horn injunction was issued?

21 A. No.

22 105. Q. In the meetings that you were part of where
23 the horn injunction was discussed, do you recall what were
24 the things being discussed?

25 A. Just it was made very clear that there was to

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18

1 be no train horns, no air horns.

2 106. Q. Not as much. Thankfully, it was significantly
3 better after the horn injunction, but Ms. Gasior, some
4 people did continue to honk their air horns and train
5 horns after that injunction; correct?

6 A. I guess so. I mean, I'm not a trucker so I
7 don't know the difference between their regular horn and
8 like the air horn or the train horn necessarily. So I
9 mean is it possible? Sure.

10 107. Q. Was that part of the discussion or advice that
11 it's just the semi-tractor trucks that can't use the air
12 horns and train horns but other vehicles could honk their
13 horns.

14 A. I don't think it was classified as just semi-
15 trucks. I think it was classified as just air horns,
16 train horns.

17 108. Q. So in the meetings you were in, what was being
18 communicated to people is if you have other kinds of
19 horns, you can honk those but if you have got air horns
20 and train horns, don't honk those.

21 A. That was not specifically said.

22 109. Q. Well, what was said?

23 A. No honking train horns, no honking air horns.

24 110. Q. Okay. And who was communicating that? Do you
25 recall?

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1 A. No, everybody was talking about it so it could
2 have been anybody that relayed it to begin with, for me
3 anyways.

4 111. Q. Ms. Gasior, when did you find out that you
5 were a defendant in this case?

6 A. At some time after leaving Ottawa in February.

7 112. Q. Do you recall who you heard it from?

8 A. I believe it would be Keith Wilson or possibly
9 Eva Chipiuk.

10 MR. CHAMP: Okay, Ms. Gasior. Thank you very
11 much. Those are all the questions I have. I thank you
12 for making yourself available. I appreciate it.

13

14 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
15 2:25 IN THE AFTERNOON.

16

17 I HEREBY CERTIFY THAT the foregoing was transcribed
18 to the best of my skill and ability.

19

20

21

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22

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(i)

INDEX

NAME OF WITNESS: BRAD HOWLAND

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 16

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

(NONE ENTERED)

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 **BRAD HOWLAND, AFFIRMED:**

2 **CROSS-EXAMINATION BY MR. CHAMP:**

3 MR. CHAMP: Thank you very much, Mr. Howland, for
4 making yourself available this morning. My name is Paul
5 Champ. I am the counsel for the plaintiffs in this
6 matter. I am just going to ask you some questions, Mr.
7 Howland. We are here this morning --

8 MR. MANSON: Counsel, if you don't mind --

9 MR. CHAMP: Yes, before I ask questions, I know
10 you will do the Evidence Act. I will go through the style
11 of cause.

12 MR. MANSON: Go ahead.

13 MR. CHAMP: The Court File No. is CV-22-00088514.
14 I am Paul Champ, counsel for the plaintiffs here to cross-
15 examine Mr. Brad Howland on the affidavit that he sworn in
16 this matter on August 21st, 2023. Mr. Manson is his
17 counsel.

18 MR. MANSON: Yes, thank you, counsel. Just for
19 the record, and out of an abundance of caution, my client,
20 Mr. Howland, has instructed me to invoke on his behalf the
21 protections of Section 13 of the Charter of Rights,
22 Section 5.2 of the *Canada Evidence Act*, Section 9.2 of the
23 *Ontario Evidence Act* and all corresponding provisions of
24 the evidence acts of other provinces. Mr. Howland, can
25 you confirm that those are, in fact, your instructions?

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1 THE WITNESS: They are.

2 MR. MANSON: Thank you very much. Counsel, your
3 witness.

4 MR. CHAMP: Thank you.

5 1. Q. Mr. Howland, do you have a copy of your
6 affidavit with you?

7 A. Yes, I do.

8 2. Q. I am just going to walk through some of the
9 paragraphs and we should be done here in 20 minutes or so.
10 At paragraph 5, you confirmed that you did, in fact, make
11 a donation of \$75,000 U.S. on February 9th, on or about,
12 through GiveSendGo. You say your goal was to express
13 support for the protestors in Ottawa. I gather, Mr.
14 Howland, you wanted that money to go to support the
15 protestors and their expenses they had incurred in
16 travelling to Ottawa and staying on the streets in Ottawa.

17 A. Yes, the truckers have truck payments to pay
18 and they have given up time to do this so those expenses,
19 yes.

20 3. Q. Their fuel costs and coming and staying in
21 Ottawa.

22 A. Coming and going from Ottawa.

23 4. Q. Their food.

24 A. Whatever expenses they deem possible for the
25 operation of their vehicles coming and going and their

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1 expenses. To look after them and their families was the
2 objective, yes.

3 5. Q. You donated through GiveSendGo. Had you tried
4 to donate earlier through GoFundMe?

5 A. No, I did not.

6 6. Q. How did you become aware of the Freedom Convoy
7 Protest? What was the main way you were finding out about
8 it?

9 A. Well, I don't know exactly. It was just
10 social media. I don't watch t.v. so it was word of mouth,
11 I guess. And then I had seen that it was coming across
12 Canada and how everybody was waving their flags, which
13 hasn't been done in a long time in this country. And
14 that's why I put my support behind them.

15 7. Q. Why didn't you provide financial support
16 earlier? What happened by February 9th that you decided
17 that was the time that they needed that extra support from
18 you?

19 A. I don't know. It was just the time.

20 8. Q. There was a lot of news around their protest
21 in Ottawa. You were following that and that's why you
22 decided you felt that they needed extra support.

23 A. Well, no, I don't think they needed the extra
24 support. That's what I chose to give and there was a lot
25 of them, and a lot of truck payments, a lot of fuel, a lot

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5

1 of families they have at home, and that's I did it at that
2 time.

3 9. Q. You were aware or you heard that GoFundMe had
4 suspended their funding raising campaign for Freedom
5 Convoy.

6 A. Yes, I was well aware of that.

7 10. Q. And you thought that was wrong. Is that
8 right? Is that your view?

9 A. They were the Friends of Freedom of people in
10 this country. There was no question about that.

11 11. Q. Did you believe that the huge amounts of money
12 that were being raised through GiveSendGo and GoFundMe,
13 that that demonstrated that the Freedom Convoy had a lot
14 of support?

15 A. A lot of money is a determination by different
16 people.

17 12. Q. For sure.

18 A. So \$10 million is a determination by some
19 people a lot and to other people, not as much. So that is
20 the predicament of the individual on how they think. So
21 a lot doesn't mean it's a lot, according to somebody.

22 13. Q. That's fair. But you wanted to donate and you
23 donated a large amount. Did you feel in some way that the
24 magnitude of your donation demonstrated the magnitude of
25 your support for the protest?

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6

1 A. No, it's just the amount that I – like I said,
2 it's all the magnitude to someone \$75,000 is a lot of
3 money. To other people, it's not. I thought it was a
4 fair amount. A fair amount or a large amount but an
5 amount I deemed to give and that was just my personal
6 amount. If a single mom in an apartment gave \$100 and all
7 her furniture in her apartment is worth \$1,000 they give
8 10 percent of what they have. So that would be a large
9 amount that they gave \$100 that would be a large amount to
10 me.

11 14. Q. For me, according to their abilities or their
12 resources I guess.

13 A. Large and small is different in everybody's
14 mind.

15 15. Q. For sure. I wanted to ask you some questions
16 about paragraph 8 of your affidavit. You speak about that
17 you did, in fact, travel to Ottawa and walked around on or
18 about February 10th --

19 A. I did. Okay, it was a Saturday.

20 MR. MANSON: Brad, wait for Mr. Champ to ask you a
21 question.

22 THE WITNESS: Okay.

23 MR. CHAMP: That's okay.

24 16. Q. It was a Saturday that you arrived.

25 A. Saturday.

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7

1 17. Q. I think the 10th was a Thursday and the 12th
2 would have been a Saturday. Was it a Saturday?

3 A. It was a Saturday.

4 18. Q. It's possible that the February 10th, you say
5 on or about, so it was on the Saturday close to February
6 10th.

7 A. It was the Saturday following the GiveSendGo
8 thing. If Saturday was the 12th, it was that Saturday.

9 19. Q. When you were there on the 10th, you would
10 agree with me, Mr. Howland, it appeared that the protest
11 seemed pretty well established by that point.

12 A. I don't know. I would say the timing, you
13 know I think it was two to three weeks at that time, so I
14 would say it was well established.

15 20. Q. And you saw like there were different
16 structures that were built, and there were barbeques all
17 over the place, at several different blocks intersections.
18 You would have seen those things.

19 A. Yes, I did. I had seen the structure on the
20 main street there where they had their stage. And there
21 were different kinds of tent apparatuses set up for
22 barbeques and whatnot.

23 21. Q. And you obviously would have seen a large
24 number of tractor-trailer trucks parked in the streets.

25 A. It wasn't as many as I thought but there were

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1 numerous ones.

2 22. Q. At that time, in your communications with
3 people, you would have spoken to people at the protest
4 obviously.

5 A. Yes, I spoke to police officers and asked them
6 how they were doing, how the crowd was and how they were
7 being treated, and just general people around. You know
8 the police officer said this was a good crowd today. They
9 were being treated very fairly. You know, he said the
10 first day that they were there, there was a lot of
11 excitement, so naturally there would be a lot of
12 adrenaline coming up, people coming across the country and
13 provinces. So I had good conversations with a few
14 different couples of police officers and from restaurant
15 people who owned the restaurants who were serving food. I
16 made a few friends, and walked around, talked to people,
17 sat, looked, watched, took it all in.

18 23. Q. From talking to people and so forth that day,
19 what was your sense of how long that protest was going to
20 last?

21 A. I had no idea. It was real and the people
22 were real and the reason why they were there was real.

23 24. Q. They seemed fairly committed and dedicated,
24 those people who were there.

25 A. They were very nice people. I couldn't say

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1 enough good about them. You know, I have been around a
2 long time in business and I know people and you look at
3 them in the eye, you talk to them. They were very genuine
4 people, non-threatening, non-hateful, very loving people.
5 No strife with them. They were just there because of the
6 unfairness of the whole situation. There were 12,000
7 truckers that were being out of a job because they
8 couldn't travel. That's 12,000 families that are affected
9 in this country. And those people cared about those
10 people. Maybe other people didn't care but I cared. I
11 really cared. And you know, those people are people that
12 work in this country. They add to the country just like
13 all the rest of us. So to single them out, in their
14 truck, unvaccinated, being by yourself all day. You have
15 to quarantine for two weeks. It's just a little bit
16 unjustified, unfair, you know, what words can you say to
17 that. And that's what drove the Freedom Convoy across
18 this country to Ottawa, for those 12,000 families.

19 25. Q. I hear what you are saying, Mr. Howland. I
20 respect what you are saying. When you were there in
21 Ottawa that day, did you have a sense that those people
22 were going to continue to protest until the government
23 responded or changed the mandates?

24 A. There was no indication. They were there, day
25 by day, is what it seemed to me, you know, one day at a

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1 time. There weren't any people beating on their drums
2 that we are going to be there forever or anything like
3 that. It was just my indication they were there doing
4 what they could and there was no animosity or hateful
5 words amongst any of these people that I had seen or
6 witnessed. It was just peace loving. We are here, doing
7 what we can with the resource we have, which is basically
8 the truck under my seat, just I am here. Some of them
9 don't know why they are there, just because you know, we
10 were definitely discriminated against in this country.

11 My wife has her science degree, took biology at
12 Dalhousie and she said the vaccine wouldn't work and we
13 are not going to take it because it's like shooting a deer
14 in the dark with no light. You may hear him running but
15 you don't know where he is at. It's one of those things
16 that we just, our family refused. You know eight months,
17 no trials, put something in your body, you know, take a
18 chance. Well, a lot of people did but to me, I wasn't
19 going to do that to us. And to take 12,000 families out
20 of a job, it's a very, very, hard thing, you know, why
21 why? What's the reason? And no one can really answer
22 that. No one has answered it. A single guy in a truck
23 travelling by himself all week and he has to quarantine
24 for two weeks. No one has answered that. Why did they
25 come hard on those guys. Well, it's a sad thing.

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1 26. Q. Mr. Howland, I want to let you know, I
2 sincerely respect your opinions on those issues a great
3 deal. I want to ask you some questions. You are talking
4 about the 12,000 truckers. When you were walking around
5 downtown, you would have seen some of the residential
6 buildings and apartments.

7 A. Well, I couldn't – you know, I'm from the
8 country. I live on a dirt road and get to the city once
9 in a while, but I have businesses in different places
10 across the country but I don't go and see them. Yeah, I
11 mean there are buildings. I didn't know one from another
12 really, you know a hotel or an apartment building. I
13 would say maybe that's an apartment, maybe that's a hotel,
14 maybe that's an office building, but I didn't know. I
15 don't know Ottawa. I had been there once in my life
16 before so I can't tell one from the other.

17 27. Q. So if I told you that there was well over
18 10,000 people that lived in that little footprint, you
19 wouldn't have any reason to disagree with me.

20 MR. MANSON: Sorry, which footprint are we
21 referring to?

22 MR. CHAMP: The occupation zone. Actually, James,
23 the occupation zone is actually 15,000 people. I know you
24 guys have put in some affidavits that you feel that
25 Lowertown and so forth shouldn't be included but it's

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1 easily over 10,000 and it's closer to 15,000.

2 MR. MANSON: Paul, I don't really want to start
3 fighting about anything like this, but perhaps the actual
4 population could be something we could talk about later.
5 I don't know how relevant that is. I don't want to fight
6 about it. I don't want to agree with it but I don't want
7 to deny it.

8 MR. CHAMP:

9 28. Q. Mr. Howland, you wouldn't have any reason to
10 disagree with me that there are thousands of people who
11 live downtown in Ottawa.

12 A. I have no idea. I'm just telling you. If you
13 say 10,000, well that's - but I have no idea.

14 29. Q. When you came to Ottawa, you understood or
15 were aware that the people of Ottawa who lived downtown
16 around where those trucks were parked were unhappy with
17 the trucks being there. You were aware of that.

18 A. No. I mean I heard people that they opened up
19 their houses and gave food and showers to these people,
20 the truckers, opened up their homes. So I mean, no I had
21 no idea that they were unhappy. How would I know that?

22 30. Q. You hadn't heard that the Mayor of Ottawa
23 declared a state of emergency and the Premier had declared
24 a state of emergency about downtown Ottawa. You weren't
25 aware of those things.

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1 A. The Mayor was upset. The Premier I am not
2 aware of. You know the Mayor invited the people in. I
3 mean they parked their trucks there. These are
4 politicians that may or may not have done anything in
5 their lives. I mean people get scared pretty easy these
6 days.

7 31. Q. Let me go at this a different way, Mr.
8 Howland. If you had, let's 12 semi-tractor trucks that
9 came and parked right in front of your house and then
10 stayed there for a few weeks, that wouldn't necessarily be
11 pleasant for you living in your home. Would you agree?

12 MR. MANSON: I caution the witness not to answer
13 any speculative questions.

14 THE WITNESS: That depends on the individual.

15 MR. CHAMP:

16 32. Q. Mr. Howland, did you donate money by any other
17 means, other than GiveSendGo?

18 A. No.

19 33. Q. When you came to Ottawa, you weren't giving
20 out money in cash to some of the truckers to help them.

21 A. I did give \$100 to one of the truckers.

22 34. Q. And that was it.

23 A. That was it, yes. There was old-time trucker
24 there. He just looked like he needed the money so I gave
25 him \$100 cash.

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14

1 35. Q. Did any of the organizers for the Freedom
2 Convoy Protest, did they ever reach out to you to thank
3 you for the size of your donation?

4 A. No.

5 36. Q. Or to thank you for your donation in any way?

6 A. No.

7 37. Q. Did you ever have communications with any of
8 the other individuals named on this claim, the other
9 defendants?

10 A. At what time?

11 38. Q. Back in February 2022.

12 A. I was walking by the fence, when they were
13 taking the fence down for the Unnamed Soldier that day.
14 And I was standing there and Chris Barber was there. So I
15 just introduced myself and shook his hand, and that was
16 it, and left. That's the only time I have met anybody on
17 the list. It was less than a 60-second conversation.

18 39. Q. The money that you donated to GiveSendGo, you
19 didn't get any of that back. GiveSendGo didn't return any
20 of that money to you, did they?

21 A. No.

22 MR. CHAMP: All right, Mr. Howland. I want to
23 thank you very much for making the time today. I know
24 these kinds of things are never pleasant but I want to
25 thank you, sir, for your answers today. Those are all the

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1 questions I have.

2

3 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
4 10:24 IN THE FORENOON.

5

6 I HEREBY CERTIFY THAT the foregoing was transcribed
7 to the best of my skill and ability.

8

9

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11 E.M. GILLESPIE/M.J. AYOTTE, A.C.T.

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(i)

INDEX

NAME OF WITNESS: JOE JANZEN

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 18

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

(NONE ENTERED)

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 **JOE JANZEN, AFFIRMED:**

2 **CROSS-EXAMINATION BY MR. CHAMP:**

3 MR. CHAMP: It's September 15th, 2023. I am Paul
4 Champ, counsel for the plaintiffs in Court File No. CV-22-
5 00088514. We are here for the cross-examination of the
6 affidavit of Joe Janzen sworn on August 24th, 2023

7 1. Q. Mr. Janzen, you have a copy of your affidavit
8 with you, sir?

9 A. I do, yes.

10 2. Q. I am just going to go through some questions.
11 Hopefully we will have you done here shortly. If you
12 could turn to paragraph 4 please, and in there it says, "I
13 am a trucker and I did drive to Ottawa to participate in
14 the Freedom Convoy Protest". Can you confirm, what was
15 the type of truck that you drove?

16 A. My pickup truck, Chevy.

17 3. Q. Once you got to Ottawa, where did you park it?

18 A. Once I got to Ottawa?

19 4. Q. Yes.

20 A. It was parked at -- when I first got there,
21 what's the one place called there. It was one camp. I
22 can't remember the name of it now.

23 5. Q. One of the camps outside of downtown or was it
24 like downtown close to the --

25 A. Well, at first it wasn't downtown but it was --

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1 what was the name of it?

2 6. Q. Coventry?

3 A. By, I think, the baseball stadium.

4 7. Q. Yes, that's Coventry.

5 A. Yeah, Coventry, there you go, sorry. At first
6 that's where I was, yes.

7 8. Q. And then later on, you moved downtown and
8 parked it downtown.

9 A. Yeah, it was Bank Street.

10 9. Q. Paragraph 5, you say that you were a road
11 captain. Who asked you to be a road captain?

12 A. Nobody, I just volunteered.

13 10. Q. But volunteered to whom or how did you know
14 that a road captain was needed for your area?

15 A. I didn't. It just kind of fell into place
16 that way.

17 11. Q. Okay. With whom did you coordinate or find
18 out information about the protest, at that time before you
19 left?

20 A. Like what kind of information? Do you mean
21 just kind of like a schedule where people were kind of
22 thing coming through?

23 12. Q. Yes.

24 A. Either Chris, Chris Barber I guess but because
25 he was further west than I was, right. He was in

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4

1 Saskatchewan so that would be about it really.

2 13. Q. How were you communicating with Mr. Barber, by
3 text or email or other social media?

4 A. No, just phone calls.

5 14. Q. How large was the group of truckers or other
6 drivers that you communicated with in Manitoba?

7 A. Oh boy --

8 MS. OVERWATER: How is he supposed to know that?

9 THE WITNESS: Yeah, I don't know. I don't know
10 for saying numbers.

11 MR. CHAMP:

12 15. Q. Can you estimate how many?

13 A. Maybe 20, 30, maybe. I don't know.

14 16. Q. When you started coordinating those folks or
15 organizing those folks to go to Ottawa, you were aware at
16 that time that there was money being raised to try to help
17 with your expenses.

18 A. As the convoy came through Manitoba?

19 17. Q. Yes. You were aware that Ms. Leitch and Mr.
20 Barber, they had a Facebook page where they had a link to
21 a GoFundMe campaign.

22 A. I might have known of it but I didn't know
23 really anything about it. I didn't have anything to do
24 with what they were doing there.

25 MS. OVERWATER: I think most Canadians knew that.

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1 That's really --

2 MR. CHAMP: I am not cross-examining you, Ms.
3 Overwater. Thank you.

4 MS. OVERWATER: I guess not but I just think
5 that's pretty general knowledge for you to ask him about.
6 Lots of people heard that.

7 MR. CHAMP: Well, thank you for that.

8 18. Q. Mr. Janzen, were you expecting to have some of
9 your expenses defrayed in some way, your gas and your
10 food?

11 A. No, not personally. I didn't know where
12 exactly where the money was going or how it was getting
13 dispersed or anything about that. I didn't have details
14 of anything to do with the money.

15 19. Q. But you were aware, and I guess you are aware
16 that there was millions being raised on GoFundMe.

17 A. At that time, there wasn't. I don't even
18 think it was --

19 MR. CHAMP: I thought that was general knowledge.
20 I thought you would be with me on that one, Ms. Overwater.

21 MS. OVERWATER: No, no, not when they first, when
22 we first heard about it. I will tell you, Mr. Champ,
23 there was an App some Canada website. I forget the name
24 right this minute. But anybody could look up and see what
25 their planned route was, and if you wanted to join, you

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1 just showed up. And no, at the time, I don't recall them
2 saying we're going to raise money to give everybody money,
3 and blah, blah, blah. And I can say that as a donor.

4 MR. CHAMP: Ms. Overwater, did you donate after
5 February 4th?

6 MS. OVERWATER: No idea.

7 MR. CHAMP: Well, Ms. Overwater, you understand
8 the problem here; right?

9 MS. OVERWATER: I don't believe so but I don't
10 remember because they shut it down, so I don't remember.

11 MR. CHAMP: Okay. We will just proceed for now.
12 Just for the record, counsel, I don't live in the
13 occupation zone. I am not in any way a class member or
14 fall within any of the class member definitions.

15 20. Q. If you go to paragraph 6 of your affidavit,
16 Mr. Janzen, in there you say,

17 I was not a liaison between the convoy and
18 Manitoba drivers at any time during the
19 protest and to be clear, I had no
20 authority in Ottawa whatsoever as a road
21 captain, whether in relation to Manitoba
22 drivers or anyone else.

23 Some of the people that drove with you, Mr.
24 Janzen, once they got to Ottawa, would they sometimes
25 reach out to you to see if you knew any information or had

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1 any updates?

2 A. Sometimes.

3 21. Q. Would you have information to pass on to them
4 at times?

5 A. I guess, yeah, sometimes.

6 22. Q. Where would you get that information?

7 A. Chris or Tamara.

8 23. Q. Then at paragraph 11, you say, "I did attend
9 daily meetings where I listened to updates and other news
10 about the protest". So that's where you would have also
11 received some information. Is that right, Mr. Janzen?

12 A. From where, sorry?

13 24. Q. At paragraph 11 saying "I did attend daily
14 meetings where I listened to updates and other news".

15 A. Yeah, yeah, that would be. I mean Chris and
16 Tamara were in those meetings or other people.

17 25. Q. Where were those meetings held? Do you
18 recall?

19 A. The Arc Hotel. As we went, we were switching
20 hotels and stuff like that, right, so it could have been
21 the Sheraton as well.

22 26. Q. Or the Swiss Hotel, did you ever go to that
23 one?

24 A. Yeah, it could have been that one too.

25 27. Q. How would you know about these various

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1 meetings in these various hotels?

2 A. Just either one of the other road captains or
3 somebody would say something. There is a meeting. Let's
4 go kind of thing; right.

5 28. Q. What kind of updates and news would be shared
6 at those meetings?

7 A. Basically to try to make things safe for
8 people. If there was – I mean after the injunction for
9 the horn honking, we tried to make it quieter for the
10 citizens; right. We weren't there to disrupt anything of
11 the sort like, for you know, to upset the citizens of
12 Ottawa in any way. We were just there because we were
13 just tired of the mandates. That's it.

14 29. Q. I guess the times in those meetings there was
15 discussion about fuel and supplies, getting fuel and
16 supplies to the truckers parked in the streets.

17 A. No. I think that was more Coventry doing that
18 stuff. I mean the questions were there but it wasn't like
19 – we didn't really organize that.

20 30. Q. You just mentioned a bit before, Mr. Janzen
21 about the injunction, the horn injunction. That
22 injunction was initially brought on Friday, February 4th
23 and there was an appearance in court on the Saturday,
24 February 5th, and then another appearance on Monday,
25 February 7th, where the court then granted the injunction.

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1 Were there meetings over that weekend, can you recall,
2 about the pending injunction motion?

3 A. Oh man, I don't remember a lot of things from
4 back then. I mean there could have been. It was a pretty
5 important fact that was happening; right. Yeah, I mean it
6 could have happened.

7 31. Q. Before the injunction was argued, were there
8 discussions that hey, maybe we should get the truckers to
9 stop honking or anything like that?

10 A. Oh, that discussion was quite frequent to try
11 to get truckers to stop honking. But when the injunction
12 happened, that's when everything really died down.

13 32. Q. It did. It died down quite a bit. But in the
14 run-up, as I say the motion was filed on Friday, February
15 4th. There was an appearance on Saturday, February 5th and
16 then it was argued in full on Monday the 7th. I'm just
17 wondering, during those three days, can you recall
18 participating in any meetings where those issues, the
19 pending motion, were discussed?

20 A. I mean I am going to say probably to try to
21 make things, you know, as best – we wanted to make sure
22 that whatever was said in court was actually happening
23 because it was important; right?

24 33. Q. Were you in meetings where Keith Wilson or Eva
25 Chipiuk was there?

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1 A. Some, yeah.

2 34. Q. Where some of those issues were discussed?

3 A. I won't say for sure what was discussed. I'm
4 trying to think exactly but I'm not sure.

5 35. Q. Can you recall what kind of information Mr.
6 Wilson and Ms. Chipiuk were sharing?

7 A. No, I can't say. I don't know.

8 36. Q. Paragraph 12 of your affidavit, Mr. Janzen,
9 you say you "would walk around protest area and speak to
10 other truckers and asked if they needed anything. I would
11 also assist in delivering supplies to those who did need
12 something and other things of that nature". What kind of
13 supplies would you deliver?

14 A. Just making food or just making sure people
15 are well taken care of. Yeah, making sure they have
16 supplies like food, water, drinks or whatever kind of
17 thing, right, or barbeques or whatever was needed to cook
18 food or whatever the case is; right.

19 37. Q. Whatever was needed to make them as
20 comfortable as possible in the circumstances?

21 A. Well, people need to eat, right. I mean
22 people need necessities in life to, you know – that's it,
23 yeah.

24 38. Q. And you did that throughout most of the three
25 weeks of the protest.

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1 A. Yeah, some of the time.

2 39. Q. The supplies that you would deliver, who paid
3 for those? Do you know?

4 A. No, there was lots of money everywhere.
5 People just had money. I don't know where it came from
6 per se. I have no idea.

7 40. Q. Where did you get the supplies from?

8 A. I would just mention it in the meetings that
9 this is what people need. And where it came from, I don't
10 know. I never asked where it came from. It wasn't
11 important. It just came and that was it.

12 41. Q. Who was the person that you would deal with
13 most often, who would get you those supplies?

14 A. It was just meetings with the people on the
15 list, from the first day, not everyone but most of those
16 people and whoever would know at the time what everyone
17 needed. I don't know where exactly they would go to find
18 everything. I mean it was a matter of just saying
19 something and word would spread and then before you know
20 it, we've got supplies.

21 42. Q. How long did you plan to stay in that protest
22 in Ottawa?

23 A. There wasn't a plan for the amount of time to
24 stay. We just stayed. That was it. It was one day to
25 the next day. When I showed up to Ottawa, I didn't even

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12

1 know what the plan was. We just went there and that was
2 it. I didn't know that people were parking. I had no
3 idea.

4 43. Q. But during these meetings that you attended
5 Mr. Janzen, at these various hotels, surely there must
6 have been discussions at some point about how long --

7 MS. OVERWATER: He said there wasn't.

8 THE WITNESS: No, there was never -- I mean how
9 would you know, or how would I know, like if, for example,
10 let's say we all said, hey, we are going to stay here for
11 three weeks, how would we know that? We wouldn't know
12 that; right? You know what I mean. This wasn't a planned
13 thing. It just naturally happened. That's all it was.

14 MR. CHAMP:

15 44. Q. Along those lines, at paragraph 22 of your
16 affidavit, the last two sentences of paragraph 33, you
17 say,

18 I further reject the allegation that this
19 was, in any way, a plan by the so-called
20 organizer defendants to gridlock downtown
21 Ottawa. There was no such plan to the best
22 of my knowledge.

23 By this you are saying there was no plan but you
24 agree that the streets were highly congested with trucks;
25 right?

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1 A. Yeah, there were trucks in the City. But
2 there was always a fire lane and we made sure that there
3 was. They actually did test runs to make sure there were
4 fire lanes and emergency lanes open. There were actual
5 police and fire trucks actually testing the situation to
6 make sure that they could get emergency vehicles through.
7 I observed it. I was there. I had seen it. They had no
8 issues getting through anywhere --

9 45. Q. All right. Sorry, I apologize, go ahead and
10 finish your answer. I'm sorry.

11 A. The only dilemma was when the police put up
12 the barricades. That was the only thing blocking a fire
13 truck from getting through. That was it. Other than
14 that, there was always a lane open.

15 46. Q. Were you involved in those efforts to organize
16 or coordinate to ensure that there were lanes through
17 these congested streets?

18 A. No. It was just a natural thing for everyone
19 to make sure that people were safe, if there was a fire
20 that the fire department could come and put it out. Of
21 course, it's important for that to happen.

22 47. Q. At some points, some streets through, Mr.
23 Janzen, absolutely were unpassable. Isn't that the case?

24 MS. OVERWATER: How would he know that?

25 MR. CHAMP:

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14

1 48. Q. He can answer his question.

2 A. From what I have seen, the only thing that was
3 blocking it was the barricades the police put out. That
4 was it. That was literally it.

5 49. Q. Aside from the police blockades you never
6 observed any streets being impassible.

7 A. Not from where I walked around, no.

8 50. Q. What about on the weekends? There was a big
9 influx of vehicles on weekends, was there not?

10 A. Yeah, there were more people there on the
11 weekends, absolutely.

12 51. Q. And it would be a little bit more difficult on
13 the weekends to maintain those emergency lanes.

14 A. Just with the amount of people around maybe,
15 but not as for blocking with vehicles, no.

16 52. Q. Did you ever have occasion to walk along Kent
17 Street, Mr. Janzen?

18 A. On Kent Street?

19 53. Q. Yeah.

20 A. I'm trying to think where Kent Street was.

21 54. Q. It's the north/south one that ends right close
22 to the Supreme Court of Canada building.

23 A. I would have to see a map.

24 55. Q. Okay. At paragraph 29, you say, I agree that
25 Freedom Convoy Protest did receive a large amount of

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1 donations through the GoFundMe and GiveSendGo online
2 platforms from donors across Canada and beyond. Mr.
3 Janzen, did you provide fill in any registration form or
4 anything like that to some of the organizers so you could
5 be reimbursed by some of your gas and other expenses in
6 travelling to Ottawa?

7 A. Did I personally fill one out?

8 56. Q. Yes.

9 A. No.

10 57. Q. Why was that?

11 A. I didn't think it was important.

12 58. Q. There was millions of dollars raised there.

13 A. I don't care. I wasn't intending to take any
14 money personally. I couldn't care less about the money.

15 59. Q. Well, it wasn't about you getting money. It
16 was just your expenses. You didn't want to be reimbursed
17 at all.

18 A. I didn't care. No, I was not.

19 60. Q. You weren't worried about where that money
20 would go otherwise, if it wasn't used to reimburse, you
21 know, people, protestors, like you who travelled across
22 the country out of their own pocket.

23 A. Well, the agreement said that the truckers
24 would get reimbursed; right? That's what the agreement
25 said, yes. But personally me, I couldn't care less. I

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16

1 didn't personally fill out any form or anything personal.

2 61. Q. You were aware though that you were organizing
3 that, having people fill in forms so that they could get
4 reimbursed; correct?

5 A. I am aware of that, yeah.

6 62. Q. And some of the truckers that you know were
7 asking questions about the money and the forms.

8 A. Asking about the money with the form, like
9 handing them in kind of thing?

10 63. Q. Or go, hey, they have raised these millions.
11 I am out of pocket now a thousand bucks or whatever in
12 travelling. No one ever asked you hey, when is that money
13 going to come through? I've got a lot of expenses.

14 A. No, just where to hand the form in. That was
15 pretty much it at the time.

16 64. Q. Where would they hand in the forms?

17 A. Email, I think it was actually but whatever
18 that email was, I really couldn't tell you. I don't know.

19 65. Q. Well, Mr. Janzen, you would agree with me it
20 would have been – the organizers were raising all this
21 money to help with the expenses of truckers and others
22 travelling to the protest. It was reasonable for people
23 to expect that they would get their expenses recovered.
24 That was reasonable, wasn't it?

25 A. Yeah, because it was said so they were all

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1 thinking they probably would get money back, their
2 expenses covered, yeah.

3 66. Q. Did people talk about like the amount? It was
4 over \$10 million raised. People weren't talking about,
5 like wow, that's a lot of money.

6 A. Not really; no. It wasn't. I think people
7 were just anticipating they get their costs reimbursed.
8 That was it. What would happen to the rest of the money,
9 I don't know.

10 MR. CHAMP: That's fine. Mr. Janzen, thank you
11 very much. Those are all the questions I have. I know
12 you are a busy guy. I appreciate you making the time.

13

14 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
15 9:59 IN THE FORENOON.

16

17 I HEREBY CERTIFY THAT the foregoing was transcribed
18 to the best of my skill and ability.

19

20

21

.....

22

E.M. GILLESPIE/M.J. AYOTTE, A.C.T.

23

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25

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(i)

INDEX

NAME OF WITNESS: HAROLD JONKER

CROSS-EXAMINATION BY: MR. CHAMP

NUMBER OF PAGES: 22

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

(NONE ENTERED)

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 HAROLD JONKER, SWORN:

2 CROSS-EXAMINATION BY MR. CHAMP:

3 MR. CHAMP: Good morning. We are here on the
4 morning of September 15th, 2023 with respect to Court File
5 No. CV-22-00088514-00CP, Li et al v. Barber et al. We are
6 here for the cross-examination on the affidavit of Harold
7 Jonker, sworn on August 22, 2023.

8 1. Q. Mr. Jonker, this is your affidavit. Do you
9 have it with you?

10 A. Yes, I do.

11 MR. CHAMP: Just for the record, we are starting
12 at six minutes past the hour. We have heard from the
13 other parties, Mr. Naymark and Mr. Karahalios. They don't
14 intend to participate in the motion. Shelley Overwater,
15 counsel for Mr. King and others, is participating in the
16 motion. We have made efforts to contact her but we
17 haven't been able to contact her. We understand she may
18 well just be participating in the examinations of her own
19 clients. With that, we will proceed.

20 2. Q. Mr. Jonker, just to confirm, before we went on
21 the record, you swore on the Bible to tell the whole truth
22 with respect to the questions I am going to put to you.

23 A. Yes.

24 3. Q. I am not going to take too long here but I
25 will start with --

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1 MR. MANSON: Mr. Champ, sorry if I may.

2 MR. CHAMP: Yes.

3 MR. MANSON: Just for the record, I wanted just to
4 say Mr. Jonker has instructed me to invoke on his behalf
5 the protections of Section 13 of The Charter, Section 5.2
6 of the *Canada Evidence Act*, Section 9.2 of the *Ontario*
7 *Evidence Act* and all corresponding provisions of any other
8 evidence acts in the other provinces. Mr. Jonker, can you
9 just confirm for the record that those are your
10 instructions?

11 THE WITNESS: Yes, that's correct.

12 MR. MANSON: Thank you, counsel.

13 MR. CHAMP: Absolutely. Sorry about that,
14 counsel.

15 4. Q. Mr. Jonker, in paragraph 8 of your affidavit,
16 I will start there, you say,

17 I confirm that I was a road captain for
18 southwestern Ontario, meaning that I had a
19 hand in organizing the actual movement of
20 trucks that departed from southwestern
21 Ontario bound for Ottawa.

22 How did you become involved? Who asked you to
23 assist in organizing the trucks from southwestern Ontario?

24 A. It was on a website that we had seen. I
25 believe Canada Unity Bear Hug Convoy and I signed up

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1 there.

2 5. Q. Did you then get any correspondence once you
3 had given the information that you were willing to be road
4 captain for that area?

5 A. Yes, I did obviously. I talked to a few
6 people, different people, a bunch of different people, as
7 to what my role would be and organizing it, yes.

8 6. Q. And then it was made known on that website, I
9 believe, that you were a road captain, someone assisting
10 people in southwestern Ontario to get to Ottawa.

11 A. That's correct, yes.

12 7. Q. Some of the other defendants, you would have
13 communicated with them at that time, James Bauder,
14 Brigitte Belton, some of them?

15 A. Yes, we did communicate here and there, yes.

16 8. Q. And some of the others like Tamara Lich or
17 Chris Barber.

18 A. No, I never really communicated with them.

19 9. Q. You were communicating more with the Ontario
20 folks.

21 A. Yes, correct.

22 10. Q. Fair enough. Mr. Bauder is in Alberta but
23 aside from him, Brigitte Belton. As it went along from
24 when you first signed on to the website until the
25 departure and then during the trip to Ottawa, who were

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5

1 your main contacts for information?

2 A. It was mainly through the website that I would
3 get information. So when things changed, I kept an eye on
4 the website. And I actually communicated with the police
5 a few times as well, changing the route, saying no, we are
6 not going to take the 407 and stuff like that.

7 11. Q. You say in paragraph 8, the last sentence,
8 My role before the convoy departed was to
9 basically respond to phone calls and
10 provide information to people who were
11 either interested in travelling in the
12 convoy or donate to the convoy, et cetera.

13 Where would you direct people who wanted to donate
14 money?

15 A. At that time, I told them to just meet us at
16 the places where we were stopping, or our stops and I did
17 point them to the GoFundMe thing.

18 12. Q. So some people you directed to the stops where
19 they would provide donations in cash and others you
20 directed them to go to GoFundMe.

21 A. Yes, correct.

22 13. Q. You say you provided information to people who
23 were interested in travelling in the convoy. I gather
24 some of those people who were interested in travelling
25 they were asking questions about whether they would get

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1 some assistance for gas money and so forth.

2 A. Yes, that's correct.

3 14. Q. And you indicated to them, I gather, that
4 there is GoFundMe and so forth and it looks like there
5 will be enough money to assist with your gas and meals, et
6 cetera.

7 A. Yeah, I didn't say that there was going to be
8 enough money. I just said - I can't remember really what
9 I would say to a bunch of people about what the procedure
10 would be on getting refunded.

11 15. Q. It all happened pretty fast. It was put
12 together pretty quickly. Is that fair to say?

13 A. Yes, it was fair to say, yes.

14 16. Q. I gather that you and other truckers that you
15 travelled with, you were following the GoFundMe page and
16 saw how much money was being raised. You could see that
17 as it climbed.

18 A. Yes, yeah.

19 17. Q. It was into the several millions of dollars.

20 A. Yes.

21 18. Q. When you departed, how long did you plan to
22 stay?

23 A. I didn't really plan to stay. I didn't have a
24 plan on how long we were staying. There was no set time
25 to stay forever or whatever. It was just we are going to

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1 protest and we want to talk to our government.

2 19. Q. Fair enough. Did the organizers, the website,
3 give you any indication of how long they planned to stay
4 or was it roughly the same, to demonstrate and stay until
5 you were heard?

6 A. That's correct, yeah. There was nowhere that
7 I noticed that we are staying for days, weeks or whatever.

8 20. Q. Okay. In paragraph 10 of your affidavit, you
9 say that 12 trucks owned by Jonker Trucking were driven to
10 Ottawa to take part in the Freedom Convoy Protest.

11 A. Yes, that's correct.

12 21. Q. And that included the truck that you drove or
13 was your truck in addition to that?

14 A. No, that includes my truck.

15 22. Q. And the other drivers, of your other 11
16 trucks, those were people who were employed by you.

17 A. Yes, either as drivers or as owner/operators;
18 correct?

19 23. Q. Your son was one of those drivers. Is that
20 right?

21 A. No.

22 24. Q. Did he travel with you though?

23 A. My son? No, he didn't.

24 25. Q. Your son was doing a number of videos online
25 about the Freedom Convoy Protest. Is that correct?

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1 A. No, that's not correct.

2 26. Q. What is the name of your son, sir?

3 A. I have 10 sons.

4 27. Q. Do you know which videos I am talking about?

5 A. I'm not sure, no.

6 28. Q. We will circle back to that. Who were the
7 names of the other 11 truck drivers then that drove?

8 A. Tim Jonker, that's my brother.

9 29. Q. Okay.

10 A. Oh, that's who you might be referring to.

11 30. Q. It might have been.

12 A. I get that a fair bit. I should have realized
13 that.

14 31. Q. Is he a younger brother?

15 A. Yeah, he is almost 11 years younger. So yeah,
16 Tim Jonker, Jeff Tenhage Bill Dykema, Jan Groen, Ryan
17 McMahan, John --

18 MR. MANSON: Harold, I'm sorry to interject.
19 Please go slowly for the record because we are getting
20 names now. The court reporter is going to want to get
21 that down precisely and Mr. Champ will want to write that
22 down as well. So please just go slowly, thank you,

23 MR. CHAMP: I was going to say if it's okay, you
24 guys could just send me the names and that will provide us
25 with all spelling afterwards. Is that okay?

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9

1 MR. MANSON: Well, we can but why don't we put it
2 on the record, Paul. It just makes it more efficient.

3 MR. CHAMP: Okay.

4 32. Q. Sorry, Mr. Jonker. So your brother, Tim
5 Jonker, can you give us those other names please?

6 A. Yeah, Jeff Tenhage, Jan Groen, Ryan McMahon,
7 Jack VanRootselaar, Eddie Dunning – I am drawing a blank
8 here. How many do I have there?

9 33. Q. That was about seven, I think, or eight.

10 A. Yeah, Bill Dykema, Andy Draaistra, Tom Van
11 Slyke and Blake Dixon. He actually didn't travel from
12 where I was. He came that evening.

13 34. Q. But that is one of the 12.

14 A. Yes.

15 35. Q. Who was the one who ended up parked on
16 Wellington Street?

17 A. That was Bill Dykema.

18 36. Q. I will take you to paragraph 25 of your
19 affidavit. Mr. Jonker, in 24 you talk about how the
20 Ottawa Police Service initially directed you guys to park
21 on the Queen Elizabeth Driveway in a single file on the
22 Rideau Canal in what appeared to be a residential area.
23 And then at paragraph 25, you say,

24 Only the fact that we were located in a
25 residential area, I didn't like where I

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10

1 and the other trucks were parked and I did
2 not want to bother residents in that
3 neighbourhood.

4 In your view, how did the parked trucks seem to be
5 bothering the residents in the neighbourhood?

6 A. It was the fact that – I just didn't want to
7 be there. It was not where I had wanted to be. It was
8 too far from Parliament and we seemed to be on our own a
9 little bit and disconnected. And there was one resident
10 that said something to us. And it's like, you know what,
11 let's not stay here and that's why we moved.

12 37. Q. I get it that it might not have seemed ideal
13 for you and the truckers, but you also understood the
14 residents. Some were even coming out and talked to your
15 right away that having a few dozen big semi-tractor
16 trailer trucks parked right by their homes was not
17 something that was very pleasant. Is that what they were
18 communicating to you?

19 A. No, it was more the fact that we were
20 protesting the lockdowns that the one person said.

21 38. Q. So they were coming up and they wanted you to
22 move because they didn't agree with what you were
23 protesting, rather than having a semi-tractor truck parked
24 by their home.

25 A. That's correct.

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11

1 39. Q. It was very cold that day. That's my
2 recollection, Mr. Jonker. Is that right?

3 A. Yes.

4 40. Q. Most of the time, pretty cold. And I gather
5 when you guys were on Queen Elizabeth, when you guys
6 parked up there, you were staying in the trucks.

7 A. Yes, we would have been staying in the trucks;
8 correct.

9 41. Q. And given how cold it was, I gather the trucks
10 would have been idling for a good portion of the time you
11 were sitting there.

12 A. No, they wouldn't have been idling to long.
13 We have bunk heaters so they keep us warm.

14 42. Q. You have pump heaters.

15 A. Bunk heaters, little bunk heaters.

16 43. Q. Yes. Then you indicated that the trucks moved
17 on to Coventry. Is that right?

18 A. That's correct.

19 44. Q. Until you personally moved yours to another
20 yard, known as Yard 88, located outside the City.

21 A. That's correct, yes.

22 45. Q. Was there discussion with other truckers, or
23 at least your own, about all of them maybe relocating to
24 Yard 88?

25 A. Not that I recall, no. There were some trucks

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1 there.

2 46. Q. Why did you relocate your truck to Yard 88?

3 A. Because it kept having to be boosted and I
4 wasn't running it. I wasn't in it. It was just sitting
5 there. So instead of taking room at Coventry, I moved it
6 to a place farther away.

7 47. Q. You indicate that the other trucks would move
8 around other locations in the protest area. And by that
9 you mean in the footprint that was closer to Parliament
10 Hill. Is that right?

11 A. That's correct, yes.

12 48. Q. Also within the area defined – I know you guys
13 don't like the term but the occupation zone is the term as
14 defined in the area set out in the claim.

15 A. Yeah, the protest zone.

16 49. Q. Why didn't your trucks just stay at Coventry,
17 your other truck drivers? Why did they drive their trucks
18 back downtown into the protest zone?

19 A. To be part of the protest I'm guessing but I
20 wasn't privy to why they moved around. I wasn't with them
21 all the time.

22 50. Q. Like in the same way you did, the trucks could
23 have stayed in Coventry and they could have gone downtown
24 on their own to protest; right?

25 A. Sorry, say that again.

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13

1 51. Q. I said they could have done the same thing you
2 did. They could have left the trucks in Coventry or maybe
3 in Yard 88 and then travelled downtown themselves to
4 protest themselves in person. Could they not have done
5 that?

6 A. Yeah, they could have done that.

7 52. Q. But the trucks were an important symbol of the
8 protest. Is that fair to say?

9 A. Yeah, I guess so, yeah.

10 53. Q. And it created quite a big symbol having those
11 hundreds of semi-tractor trucks parked throughout all of
12 those streets. It sent quite a message to the government,
13 didn't it?

14 A. It sent quite a message to the government, we
15 believed, yeah.

16 54. Q. You indicate that you didn't think trucks were
17 idling 24 hours a day. And that's fair; no single truck
18 would have been idling 24 hours a day. But you were
19 walking around, Mr. Jonker. You would have observed some
20 trucks idling for prolonged periods of time.

21 A. No, I was – you would see trucks idling, yes,
22 to recharge their batteries, to warm up the engine but not
23 for – I didn't notice trucks running long, long periods of
24 times and like I said earlier, they had their bunk heaters
25 that keep their bunks warm.

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1 55. Q. The diesel fumes from semi-tractor trucks;
2 it's not pleasant, is it?

3 A. The new systems that they have in these trucks
4 do a good job of making us burn clean. It's called the DEF
5 system.

6 56. Q. At paragraph 28 of your affidavit, Mr. Jonker,
7 you say that,

8 I admit that there were instances where
9 protesters honked the horns of many of the
10 tractor-trailer units that were located in
11 downtown Ottawa during protest.

12 At its height, how frequent would you say the
13 horns were honking?

14 A. At a what?

15 57. Q. At its height, at its worse, how frequently
16 would you say the horns were honking?

17 A. I don't know. I wouldn't be able to say at a
18 height. They were honking, yes, but to what extent I
19 don't know.

20 58. Q. Fair enough. But you were around the protest
21 zones at times in the mornings.

22 A. Yeah.

23 59. Q. And you were around the protest zones at times
24 in the evenings.

25 A. Yeah.

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15

1 60. Q. And you would have heard trucks honking both
2 in the mornings and in the evenings at times.

3 A. Yes, yeah.

4 61. Q. And these were trucks that were parked;
5 correct? They weren't honking the horn because they were
6 trying to drive; correct?

7 A. Yeah, that's correct.

8 62. Q. The horns were some kind of form of
9 expression. Was that your understanding?

10 A. Yeah, yeah.

11 63. Q. The honking was trying to send a message.

12 A. Yes, yeah.

13 64. Q. What message do you think they were trying to
14 send?

15 MR. MANSON: Well, let's not speculate, Mr. Champ.

16 THE WITNESS: Every truck driver was on their own
17 doing their things so it was...

18 MR. CHAMP:

19 65. Q. That's fair. But you would agree with me that
20 there were times when many, many, many trucks were honking
21 at the same time.

22 A. I wouldn't say no. I wouldn't say yes. It's
23 hard to say a number; right? But yeah, there were times
24 where it was quite a few trucks honking.

25 66. Q. At the same time.

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16

1 A. It could be, yeah.

2 67. Q. At paragraph 30, you speak about meetings at
3 the Arc Hotel.

4 A. That's correct.

5 68. Q. How often would you meet at the Arc Hotel?

6 A. I met there at the beginning a little bit and
7 after that, I wasn't in the meetings.

8 69. Q. How did you know when to meet, or how were you
9 invited to those meetings?

10 A. I went there and then I was invited into the
11 meetings and then they had scheduled meetings.

12 70. Q. How did you know that they were scheduled?
13 What was the form of communication? Can you recall?

14 A. I was told when I was there the first few days
15 that we are trying to meet at these times and we would try
16 to meet. But I didn't stay in there after the first
17 weekend.

18 71. Q. Do you recall how communicated that to you,
19 that there were set times to meet at the Arc Hotel?

20 A. No, I don't, no.

21 72. Q. Who else was present that those few meetings
22 that you attended?

23 A. It was fluid so I can't recall. There was Tom
24 Marazzo.

25 73. Q. Let's just go through some people.

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17

1 A. And after that, it changed all over.

2 74. Q. Marazzo was there. Was Danny Bulford there?

3 A. No.

4 75. Q. Did you ever see Mr. Barber or Ms. Lich there?

5 A. No, I didn't.

6 76. Q. Or Pat King, did you ever see him there?

7 A. I had seen him at the Arc but I didn't see him
8 in a meeting.

9 77. Q. Brigitte Belton?

10 A. I had seen her there but I can't recall her
11 being in the meetings that I was in.

12 78. Q. Dale Enns?

13 A. I don't recall meeting him, no.

14 79. Q. Joe Jansen?

15 A. No.

16 80. Q. Did you get to know any of those folks during
17 the – well, at least Janzen and Sean Tiessen? Did you get
18 to know those guys during the protest?

19 A. No, I didn't.

20 81. Q. Of the other named defendants, who did you
21 ever have occasion to come across during the protest? You
22 just mentioned Mr. King. Who else did you, in person,
23 come across?

24 A. I had seen Tamara. I had seen Chris. I
25 didn't actually talk to them during the protest much. And

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18

1 I did see Daniel Bulford but I didn't talk to him. We
2 were meeting lots of people.

3 82. Q. Fair enough. I know there were a lot of
4 people there. At these meetings at the Arc Hotel, what
5 would be discussed? What were some of the topics that
6 would be discussed or information shared?

7 A. I was only in a few meetings, so it was more
8 we were trying to get numbers figured out and locations
9 where people were and that was right at the beginning.
10 There was a lot of just logistics, getting logistics
11 settled down.

12 83. Q. Logistic around where the trucks were.

13 A. That's correct and the numbers.

14 84. Q. And also how to get supplies to them, like how
15 to get fuel to them and so forth.

16 A. Yeah.

17 85. Q. There were block captains as well assigned.
18 Is that right?

19 A. They were trying to do that, yes.

20 86. Q. So that they could more efficiently ensure
21 that trucks in certain areas could get information and
22 supplies to them. Was that your understanding of the
23 purpose?

24 A. Yeah, we were trying to set up communications
25 with blocks and stuff, yes.

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19

1 87. Q. And then once the logistics and all that was
2 set up, and the trucks were there, the first week goes by.
3 The second week goes by. After the second week, Mr.
4 Jonker, why were people staying? Why were you staying I
5 should say, and your group?

6 A. Because our Prime Minister or nobody from the
7 Federal government had still come to talk to us.

8 88. Q. The plan was to stay until someone came to
9 speak to you from the Federal government.

10 A. That was what we wanted, yes.

11 89. Q. Did you get reimbursement for any of your
12 expenses for travelling to Ottawa and back?

13 A. No, I didn't.

14 90. Q. While you were there, were there some efforts
15 to collect information or registrations around people so
16 that they could perhaps reimburse you afterwards?

17 A. Yeah, we were instructed to sign the documents
18 from anybody that was travelling with us but I didn't keep
19 any of those. I signed them, yeah.

20 91. Q. And you knew early on that the GoFundMe
21 fundraiser, that one was shut down. Do you recall that?

22 A. Yeah, I do recall that.

23 92. Q. But then there was another big online
24 fundraiser called GiveSendGo that got started. You were
25 aware of that.

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20

1 A. Yes.

2 93. Q. And you were aware that that one raised
3 several millions of dollars as well. There were many
4 people that were donating money to support you guys.

5 A. Yes.

6 94. Q. While you were there, you were following the
7 amount of money that was being raised in GiveSendGo. It
8 was millions that was raised. You followed that.

9 A. I didn't follow the second one, no.

10 95. Q. What about the expenses of your other drivers?
11 Did you defray some of those expenses that they have, like
12 the fuel and so forth?

13 A. No.

14 96. Q. When they were on the ground in the protest
15 area, were they getting free fuel and so forth?

16 A. I imagine they were. I'm not sure. I never
17 was privy to that.

18 MR. CHAMP: Okay. Those are all the questions I
19 have, Mr. Jonker. I want to thank you very much, sir. I
20 know you are a busy guy and I want to thank you for making
21 yourself available today.

22 MR. JONKER: No problem, thank you.

23

24 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
25 9:31 IN THE FORENOON.

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I HEREBY CERTIFY THAT the foregoing was transcribed
to the best of my skill and ability.

.....

E.M. GILLESPIE/M.J. AYOTTE, A.C.T.

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(i)

INDEX

NAME OF WITNESS: SEAN TIESSEN
CROSS-EXAMINATION BY: MR. CHAMP
NUMBER OF PAGES: 13

ADVISEMENTS, OBJECTIONS & UNDERTAKINGS

(NONE GIVEN)

EXHIBITS

EXHIBIT NO. 1: Copies of three registration forms. 7
EXHIBIT NO. 2: Copy of Code of Conduct. 7

DATE TRANSCRIPT ORDERED: SEPTEMBER 15, 2023

DATE TRANSCRIPT COMPLETED: SEPTEMBER 15, 2023

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1 **SEAN TIESSEN, AFFIRMED:**

2 **CROSS-EXAMINATION BY MR. CHAMP:**

3 MR. CHAMP: We are on the record. It's September
4 15th, 2023, Court File No. CV-22-00088514, Li et al v.
5 Barber et al. We are here for the cross-examination of
6 the affidavit of Sean Tiessen, sworn on August 23rd, 2023.

7 1. Q. Mr. Tiessen, my name is Paul Champ. I am
8 counsel for the plaintiffs. I just have some questions
9 for you. Before I start, I think Mr. Manson wants to note
10 something on the record.

11 A. You bet.

12 MR. MANSON: Mr. Tiessen has instructed me to
13 invoke on his behalf the protections of Section 13 of the
14 Charter of Rights, Section 5.2 of the *Canada Evidence Act*,
15 Section 9.2 of the *Ontario Evidence Act* and all
16 corresponding provisions of the evidence acts in other
17 provinces. Mr. Tiessen, can you just confirm that that is
18 your instruction?

19 THE WITNESS: Yes, that is my instruction.

20 MR. CHAMP:

21 2. Q. The first thing I would like to ask you, Mr.
22 Tiessen is I understand that you were a road captain for
23 the Freedom Convoy for the trip from British Columbia.
24 Can you tell us how did you become a road captain? How
25 did you find out about the Freedom Convoy?

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3

1 A. Correct, I was road captain. I found out about
2 it by a video from Pat King and there was a meeting that
3 was suggested through Zoom or Jetspeed.

4 3. Q. Who was on that initial meeting?

5 A. That would have been Tamara, Chris, Ryan,
6 Brigitte, and James Bauder. There was one other, Stu, I
7 don't remember Stu's last name.

8 4. Q. That was Chris and Tamara, that's Chris Barber
9 and Tamara Lich, I gather.

10 A. Correct.

11 5. Q. James Bauder. That's Ryan Mihilewicz.

12 A. Yes, it is.

13 6. Q. And Brigitte was Brigitte Belton.

14 A. Yes.

15 7. Q. Was Pat King on that call as well?

16 A. Yes, I believe he was.

17 8. Q. What was your role as road captain? I
18 understand it was to collect information or registration
19 forms for people who were going to join the convoy with
20 you.

21 A. Correct. I would email them or I would
22 physically give it to them. I would have them fill out
23 the very basic information and hand it back to me for
24 verification to make sure that everything was complete.
25 Then I would sign it and then I would pass it on.

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4

1 9. Q. You produced today, and I thank you for that,
2 three registration forms. I just notice that there is a
3 slight difference in them, like the wording is just
4 slightly different. Had you noted that?

5 A. It's because the form did change. There were
6 a couple of different versions. At the very start, it was
7 version A and as it went on, it evolved let's say..

8 10. Q. Okay, that's fine. And then each of the forms
9 that we have, they have got an email address to where the
10 form can be emailed to. To your understanding, who would
11 be receiving the forms?

12 A. I believe that was Helen Garcia.

13 11. Q. Ms. Garcia was working with Ms. Lich at that
14 time. Is that your understanding?

15 A. I believe. I think she was definitely an
16 acquaintance of Tamara.

17 12. Q. The purpose of the registration form was so
18 that people making that long trip could get reimbursed
19 some of their expenses.

20 A. Correct. And it was to ensure that all of the
21 information was complete so that we had all of the
22 person's full name and mailing address, as well there was
23 a second piece of paper – what's that thing called. It's
24 a certification that you are going to behave.

25 13. Q. Yeah, the Code of Conduct.

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5

1 A. Code of conduct, that's the words I am looking
2 for.

3 14. Q. There we go. And you don't have a copy of the
4 Code of Conduct anymore.

5 A. Not one that has been filled out or signed.
6 Actually yeah, I believe I did send one to James there
7 today. I basically didn't get anything via email; right.
8 There was only like a couple of people that emailed.
9 Everything was physically handed to me.

10 MR. MANSON: Mr. Champ, let me just interject.
11 Mr. Tiessen is quite right. I have neglected to see a
12 second picture here. I do see a Code of Conduct that is
13 here. So what I can do, Paul, if you don't mind, maybe we
14 can stand down for five minutes. I can send it to you.

15 MR. CHAMP: Just send it to me and I will keep
16 going, if that's okay.

17 MR. MANSON: Okay. I will do that right now as we
18 go.

19 MR. CHAMP: Okay, thank you.

20 15. Q. Mr. Tiessen, the purpose of those forms was so
21 that people could get reimbursed for their expenses;
22 correct?

23 A. Yes. It was primarily for the truckers to get
24 reimbursed and it was discussed with the folks that didn't
25 drive a commercial truck that they were on the lower

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1 priority. So we will reimburse the truckers first and
2 then them second if there are funds available, which
3 because at the time of those conversations, we didn't know
4 that we had \$10 million twice.

5 16. Q. Right. It was later. But by the time you
6 arrived in Ottawa, you knew that they had raised close to
7 \$10 million or more; correct?

8 A. Correct, yes.

9 17. Q. You only provided me with three forms. Is
10 that because people were just sending the forms directly
11 to those emails or did you lose some of them and don't
12 have them anymore?

13 A. No, it was all done in the physical. Everyone
14 did everything, like primarily, in person because I had to
15 sign them before I sent them on so I had to meet up with
16 the people. They would hand it to me. I would sign it
17 and then I would give it to whomever at the time.

18 18. Q. Do you know who prepared or drafted the
19 registration form template and the Code of Conduct?

20 A. I do not know.

21 MR. CHAMP: Counsel, if it's okay, I would say
22 that the three forms that Mr. Tiessen sent to us, would
23 have those marked together as Exhibit 1 and then the Code
24 of Conduct, whenever I get it, we will have it marked as
25 Exhibit 2. Is that okay?

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7

1 MR. MANSON: Yes, that's fine and I did just send
2 that to you, Mr. Champ, so you should get it now.

3 MR. CHAMP: Yes, I see it here.

4 **EXHIBIT NO. 1:** Copies of three registration forms.

5 **EXHIBIT NO. 2:** Copy of Code of Conduct.

6 19. Q. And the Code of Conduct, I see, Mr. Tiessen,
7 has got a place for the road captain's signature to sign
8 as well.

9 A. Yes.

10 20. Q. And you signed that for the people who you
11 organized.

12 A. Correct.

13 21. Q. And I apologize. I might have already asked
14 because I am juggling a few things, but who drafted this
15 form to your knowledge?

16 A. Sorry, I do not know who created it.

17 22. Q. No problem. Did you, yourself, get reimbursed
18 for any of your expenses, Mr. Tiessen?

19 A. I did not.

20 23. Q. When you got to Ottawa, where did you stay?

21 A. I stayed at the Arc Hotel.

22 24. Q. Your hotel room was paid by someone else I
23 gather.

24 A. Yes.

25 25. Q. Do you know who paid for your hotel?

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1 A. I believe it was Adopt A Trucker. That is a
2 speculation. I don't actually know.

3 26. Q. Okay. Who told you which room you could take
4 or how did you make the connect saying that your hotel
5 room is paid for and here is the key?

6 A. The clerk when I checked in.

7 27. Q. You say in your affidavit that you attended
8 daily meetings where you listened to updates and other
9 news about the protest. Where were those meetings held?

10 A. They were at the Arc Hotel.

11 28. Q. Did you occasionally attend meetings at the
12 Swiss Hotel or the Sheraton?

13 A. Yeah, I guess I went to one at the Sheraton,
14 and I went to one at the Swiss as well.

15 29. Q. The ones at the Arc hotel, those were daily
16 meetings. That's my understanding.

17 A. Correct. There was several.

18 30. Q. Just for some of the other people named here,
19 were Chris Barber and Tamara Lich at some of the meetings
20 you attended?

21 A. Some of them.

22 31. Q. How about Pat King?

23 A. No.

24 32. Q. James Bauder?

25 A. No.

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1 33. Q. Brigitte Belton?

2 A. Yeah, she was at pretty much all of them.

3 34. Q. Danny Bulford?

4 A. He was at the ones at the Swiss.

5 35. Q. How about Dale Enns?

6 A. We'll go with less than half.

7 36. Q. How about Chad Eros? You met Chad I gather.

8 A. Yes, he was at the – I would say very
9 infrequently at the Arc but at the Swiss that's where he
10 was primarily.

11 37. Q. Did you ever meet Nicholas St. Louis?

12 A. That name does not – oh, that's that other
13 guy. No, I did not.

14 38. Q. He was the Crypto guy.

15 A. That's that other guy that's names.

16 39. Q. Yes, he was the Crypto --

17 A. I have no idea, never met him.

18 40. Q. Okay.

19 A. Something like a Happy Caribou or something
20 like that.

21 41. Q. That's right, nobodycaribou. He managed
22 raising the Bitcoin for you guys.

23 A. Oh, I see.

24 42. Q. At paragraph 30 of your affidavit, it says,
25 I agree that from time to time I and/or

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10

1 the other so-called organizer defendants
2 would communicate with the other protestor
3 through various social media channels.
4 Do you know what social media channels were used
5 to communicate with the protestors that you were aware of?

6 A. I know that there was Facebook. There was
7 Twitter. I don't know about the other ones. There was
8 also a text broadcast, like a push notification I think
9 that's what that's called.

10 43. Q. Do you know who managed that push
11 notification?

12 A. What's his name? Jeff, big bearded dude from
13 Manitoba. He had a French last name.

14 44. Q. Okay. And he would have been out of the Arc
15 Hotel I guess.

16 A. Yes.

17 45. Q. At paragraph 32 of your affidavit, you say
18 that,

19 I agree that the Freedom Convoy Protest
20 did receive a large amount of donations
21 through the GoFundMe and GiveSendGo online
22 platforms from donors across Canada and
23 beyond.

24 You had mentioned earlier, Mr. Tiessen, that the
25 Freedom Convoy raised \$10 million with GoFundMe and then

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1 raised it again GiveSendGo.

2 A. Yes, roughly, those are rough figures.

3 46. Q. I am saying as well it's rough figures. That
4 was something that people felt was demonstrated how much
5 support they had amongst the public, I guess.

6 A. It was a symbol. You know, it's not the
7 money. It was a symbol.

8 47. Q. That was a huge amount of money that was
9 raised and it was symbol of how much support that you had.

10 A. Yes, how many Canadians we had behind us.

11 48. Q. How many Canadians you had behind you, okay.
12 Would people in the protest, like on the ground, talk
13 about it, the amount of money that was raised, showing how
14 much support you were getting?

15 A. Not really. You could say it was brought up.
16 There was the mention of it but it wasn't dwelled on and
17 it wasn't really part of the discussion subject matter.

18 MR. CHAMP: All right, Mr. Tiessen. I have
19 examined some of the other people today and I think I've
20 got all the other answers that I need. Those are all the
21 questions that I have for you. I thank you for making
22 yourself available today.

23

24 -- THE CROSS-EXAMINATION ADJOURNED AT THE HOUR OF
25 3:44 IN THE AFTERNOON.

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I HEREBY CERTIFY THAT the foregoing was transcribed
to the best of my skill and ability.

.....

E.M. GILLESPIE/M.J. AYOTTE, A.C.T.



Freedom Convoy 2022 Code of Conduct

Truckers will:

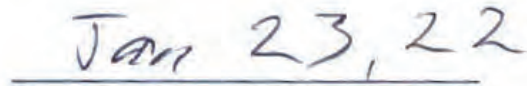
1. Drive with courtesy to fellow drivers and the general public.
2. Keep in mind the purpose of this convoy.
3. Be respectful. Everyone will have their own reasons for participating in this convoy and we need to be respectful of their reasons.
4. Not promote harmful media. We do not encourage nor support any forms of media that are displaying bodily harm or death to anyone.
5. Display support in a respectful manner. This is to be a peaceful convoy, and everyone must encourage that.




Signature



Road Captain Signature



Date



Date



FREEDOM CONVOY 2022 Registration Form

Name (Last, First) Rehill Brian (Victor)

Email victorrehill@gmail.com

Phone # (204) 795-9504

Mode of Transportation:

Semi Truck: _____ Pilot Operator: _____

Mechanic: _____ Private Vehicle: * _____

Make/Model (Private Veh): Chevy Traverse LS

- Please provide proof registration and a photocopy of a valid drivers license and attach and submit with this form.
- As you travel to Ottawa, please keep all records of gas receipts (must be actual receipt, not debit receipt). Receipts are required for reimbursement.
- Check in will be required at Ottawa destination (details will be provided later).
- Will you require accommodations in Ottawa? Yes ^{*} No

Victor Rehill
Signature

January 22 2022
Date

Road Captain Signature

Ottawa Check In Verification

Completed form can be emailed to tbofconvoy2022@protonmail.com

FREEDOM CONVOY 2022 Registration Form

Name (Last, First) Chaffee Troy
 Email Troychaffee@me.com
 Phone # (778) 998-4169

Mode of Transportation:

Semi Truck: ___ Pilot Operator: ___ Mechanic: ___

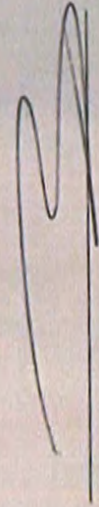
Private Vehicle: Make/Model (Private Veh): 2014 Ford F150

The following must be provided for Approval:

1. Proof of registration, for the vehicle being used for the convoy (email or provide copy to road captain)
2. As you travel to Ottawa, keep all records of fuel receipts (must be actual receipt, not debit receipt). Please print full name on all receipts and attach pictures to the email. This will be used for proof of travel. ***As you travel home keep those receipts as well, as we are hoping to provide funding for both ways, depending on funds. You will be asked to send those receipts after the first payout.***

Completed form and correspondence can be emailed to financeconvoy2022@protonmail.com

Please note that in case of an audit, your name and the funds disbursed to you, may have to be provided as proof that funds have been used in the proper manner. By signing this Freedom Convoy 2022 Registration form you acknowledge and give permission to the Freedom Convoy 2022 committee to provide your information for only those purposes stated.

Signature 

Signature

Road Captain/Signature 

Date Jan. 23, 2022

Date

Date JAN 23 2022

Date



Electronically issued : 04-Feb-2022
Délivré par voie électronique : 04-Feb-2022
Ottawa

Court File No:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ZEXI LI

Plaintiff

- and -

**CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and
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,
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JOHN DOE 36, JOHN DOE 37, JOHN DOE 38, JOHN DOE 39, JOHN DOE 40,
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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 and JOHN DOE 60**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office,

WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____

Registrar
Court House,
161 Elgin Street
Ottawa, Ontario

TO: Chris Barber
Swift Current, Saskatchewan

AND TO: Benjamin Dichter
Toronto, Ontario

AND TO: Tamara Lich
Medicine Hat, Alberta

AND TO: Patrick King
Red Deer, Alberta

AND TO: John Doe 1 to John Doe 60

CLAIM

1. The Plaintiff, on behalf of the Class described herein, claims the following:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the representative Plaintiff for the Class (as defined below);
 - (b) damages for private nuisance in the amount of \$4.8-million or any such amount that this Honourable Court deems appropriate;
 - (c) punitive damages in the amount of \$5-million;
 - (d) injunctive relief prohibiting the continuation of the nuisance;
 - (e) pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, as amended;
 - (f) the costs of this action, including HST;
 - (g) 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
 - (h) 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 every person in Canada. 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 a large demonstration in the vicinity of the Parliament Buildings in Ottawa. Like many protesters, they wanted their voices heard by political leaders. To ensure that happened, the Defendants designed a plan to block all the streets and roadways around Parliament and the surrounding neighbourhood, and make as much noise as possible and cause discomfort to the 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 non-stop, 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 continuously for 12 to 16 hours per day.

8. The historical neighbourhood around the Parliament Buildings 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. For the approximately 6,000 residents who live closest to the protests, the non-stop blaring horns have caused unbearable torment in the sanctity of their own homes.

9. The Freedom Convoy horn protest organized by the Defendants has caused significant mental distress, suffering and torment to the Plaintiff and the proposed Class Members who live in the six-block radius around the main protest streets. The horn protest has substantially and unreasonably interfered with the private use and enjoyment of the Class Members' property.

PARTIES

10. 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.

11. The Defendant Chris Barber resides in Swift Current, Saskatchewan. He is one of the organizers of the Freedom Convoy. He is a truck driver, who owns a trucking company in Saskatchewan.

12. The Defendant Benjamin Dichter resides in Toronto, Ontario. He is one of the organizers of the Freedom Convoy. Dichter is a former Conservative Party of Canada candidate and a prominent supporter of the People's Party of Canada.

13. The Defendant Tamara Lich resides in Medicine Hat, Alberta. She is one of the 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 platform GoFundMe. 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.

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

15. John Does 1 to 60 are drivers of semi-trucks that are parked in the downtown Ottawa core during the Freedom Convoy protest, blasting air horns and train horns on their trucks as a form of protest. The identities of these truck drivers are unknown at the time of the issuance of the claim.

16. The Plaintiff brings this action pursuant to the *Class Proceedings Act, 1992* on her own behalf and on behalf of all other persons who reside within two blocks of the main protest streets.

17. The proposed members of the Class are:

all persons who reside in Ottawa, Ontario, from Bay Street to Elgin Street and Lisgar Street to Wellington Street.

ORGANIZING THE FREEDOM CONVOY PROTEST

18. In early January 2022, the Defendants began to organize a protest to express their political opposition to COVID-19 health measures. They discussed and created a common plan to have a “Freedom 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 on January 29, 2022.

19. On or around January 14, 2022, the Defendants 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”. Indeed, the Defendants used this Facebook page to discuss logistics, organization and mobilization for the Freedom Convoy.

20. On or around January 23, 2022, the Defendants also created a fundraising 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.

21. On their GoFundMe page, the 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.

22. 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 a repeal of all public health measures.

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

24. One of the main tactics coordinated by the Defendants, in support of their goal of forcing the federal government to listen to their demands, was for participants to make as much noise as possible when stationed in Ottawa's downtown. To make that noise, the Defendants planned, organized, encouraged and directed Freedom Convoy participants to continuously blast the horns of their vehicles, as described further below.

SETTING UP IN OTTAWA AND MAIN PROTEST STREETS

25. 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").

26. When they arrived in Ottawa, the Freedom Convoy vehicles began to congregate to block many of the streets surrounding Parliament Hill and in the Centretown neighbourhood.

27. 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 the streets between Bay Street to Elgin Street and Laurier Avenue to Wellington Street.

28. For 24 hours per day, the semi-trucks have primarily remained lined and concentrated on Kent Street and Bank Street running north south, and on Wellington Street running east west. The trucks remain running all day and night, with other Freedom Convoy participants organizing the delivery of fuel in jerry cans.

HORN TACTIC

29. One of the main protest tactics employed by Freedom Convoy participants has been to make as much noise as possible to disturb individuals in Ottawa's downtown.

30. 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.

31. The Defendants coordinated their horn-blasting tactic with Freedom Convoy participants via social media channels, including Facebook and YouTube, and via the walkie-talkie app Zello.

32. 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.

33. 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.

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

35. 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.

36. 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.

DEFENDANTS’ CONDUCT IS UNLAWFUL

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

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

43. 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).

44. Finally, 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.

IMPACT

45. 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.

46. For individuals who live in residences beside the streets where the horns are blasting, the sound within the home is approximately 80 decibels.

47. 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.

48. Sleep is best at 30 decibels or below and there can be significant interference with sleep when sound level decibels exceed 45.

49. 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.

50. 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 hearing damage can occur in a matter of seconds.

51. Prolonged exposure to sound levels of 70 decibels and above can cause psychological distress and interfere with psychological integrity.

52. The truck horns are causing moral and psychological harm to the Class 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, Class Members are experiencing significant sleep disturbances.

53. Class Members who leave their homes for work, groceries or necessities experience significantly elevated sound exposure. Some Class 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 Class Members are living in daily torment caused by the incessant blasting of truck horns.

PLAINTIFF'S PERSONAL EXPERIENCE

54. The Plaintiff, 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.

55. 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 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.

56. From within her unit, the sound of all three types of honking horns from the persists 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

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

PRIVATE NUISANCE

63. The incessant blaring of the high decibel air horns and train horns substantially interferes with the private use and enjoyment of the Class Members' homes. The conduct is totally unreasonable and unjustified.

64. The Defendants Barber, Dichter, Lich and King have organized, planned, encouraged and directed the horn tactic by Defendants John Doe 1 to John Doe 60.

DAMAGES SUFFERED BY CLASS MEMBERS

65. As a consequence of the private nuisance by the Defendants, Class 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.

66. The estimated damages per Class Member is \$100 per day of the continued use of the unlawful horn tactic.

67. 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.

PUNITIVE DAMAGES

68. The Defendants deliberately planned the horn tactic to cause distress and discomfort to the Class Members and substantially interfere with the private enjoyment of their homes. The Defendants are aware or ought to be aware that the prolonged use of the extremely loud air horns and train horns can cause permanent hearing damage and psychological harm. The Defendants have acted with wanton disregard towards the residents of Ottawa.

69. 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.

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

Dated this 4th day of February, 2022.

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

Per: Paul Champ
LSO: 45305K

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

pchamp@champlaw.ca

Court File No.

ZEXI LI

-and -

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

Plaintiff

ONTARIO
SUPERIOR COURT OF JUSTICE

STATEMENT OF CLAIM

Proceedings under the *Class Proceedings Act*,
1992

CHAMP & ASSOCIATES

Equity Chambers
43 Florence Street
Ottawa, Ontario K2P 0W6
Tel.: (613) 237-4740
Fax.: (613) 232-2680

Per: Paul Champ
LSUC#: 45305K
Email: pchamp@champlaw.ca

Solicitors for the Plaintiff

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

**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 Gasiar 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 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

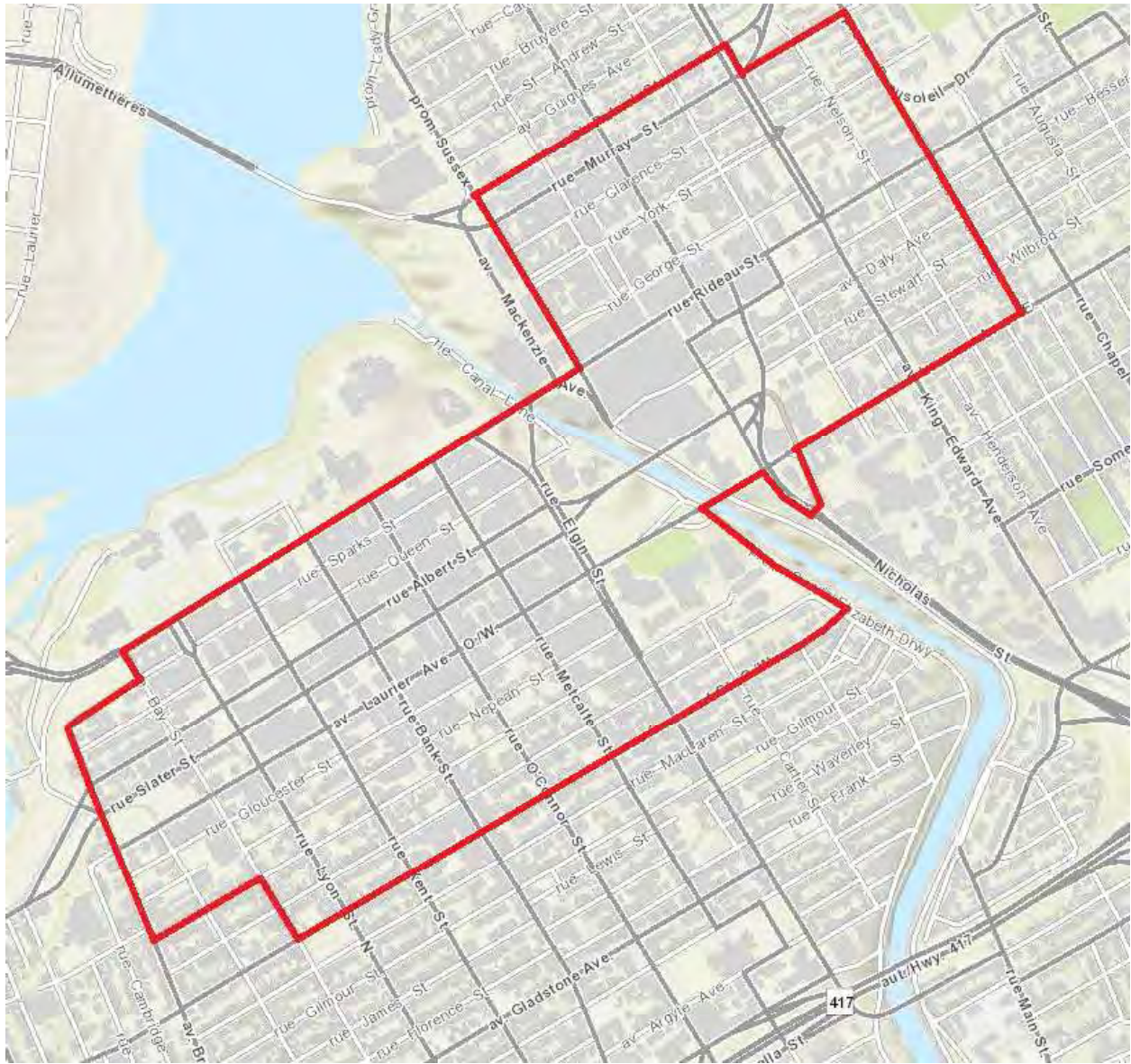
41. The Defendants engaged in a common design to occupy downtown Ottawa for an indefinite period with semi-trucks and semi-truck-trailers, to blockade the roads and streets, and to create excessive noise and other disturbances to substantially interfere with and cause distress to everyone who lives,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

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

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LSO: 45305K

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pchamp@champlaw.ca

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

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

CHAMP & ASSOCIATES

Equity Chambers
43 Florence Street
Ottawa, ON K2P 0W6
Tel.: (613) 237-4740
Fax.: (613) 232-2680

Per: Paul Champ
LSUC#: 45305K
Email: pchamp@champlaw.ca

Solicitors for the Plaintiff

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

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

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

Plaintiffs

- and -

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANZEN,
JASON LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS AND FREEDOMS, GIVESENDGO LLC,
JACOB WELLS, HAROLD JONKER, JONKER TRUCKING INC., and BRAD HOWLAND

Defendants

Proceeding under the *Class Proceedings Act, 1992*

FURTHER FRESH AS AMENDED STATEMENT OF CLAIM
(Claim originally issued on February 4, 2022, as amended February 18, 2022 and
March 14, 2023)

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____

Registrar
Court House,
161 Elgin Street
Ottawa, Ontario

TO: Chris Barber
Swift Current, Saskatchewan

AND TO: Benjamin Dichter
Toronto, Ontario

AND TO: Tamara Lich
Medicine Hat, Alberta

AND TO: Patrick King
Red Deer, Alberta

AND TO: James Bauder
Alberta

~

- AND TO: Brigitte Belton
Wallaceburg, Ontario
- AND TO: Daniel Bulford
Ottawa, Ontario
- AND TO: Dale Enns
Winkler, Manitoba
- AND TO: Chad Eros
Moose Jaw, Saskatchewan
- AND TO: Chris Garrah
Ottawa, Ontario
- AND TO: Miranda Gasior
Lloydminster, Saskatchewan
- AND TO: Joe Janzen
Winkler, Manitoba
- AND TO: Jason LaFace
Sudbury, Ontario
- AND TO: Tom Marazzo
Amherstview, Ontario
- AND TO: Ryan Mihilewicz
Prince Albert, Saskatchewan
- AND TO: Sean Tiessen
Grand Forks, British Columbia
- AND TO: Nicholas St. Louis (a.k.a. "@NobodyCaribou")
Ottawa, Ontario
- AND TO: Freedom 2022 Human Rights and Freedoms Inc.
1493 Leeds and Grenville 2
Mallorytown, ON K0E 1R0
- AND TO: GiveSendGo LLC
8 The Green Ste A
Dover, Delaware
United States of America
- AND TO: Jacob Wells

Virginia Beach, Virginia
United States of America

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

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

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

CLAIM

1. The Plaintiffs, on behalf of the classes described herein, claim the following:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiffs as the representative Plaintiffs for the Resident Class, the Business Class and the Employee Class (as defined below);
 - (b) an order certifying this action as a class proceeding for semi-trailer truck and donor class defendants and appointing Harold Jonker and Jonker Trucking Inc. as the representative Defendants for the Trucker Class and Brad Howland as the representative Defendant for the Donor Class (as defined below);
 - (c) general damages for private nuisance and public nuisance, in the amount of \$60-million for pain and suffering and psychological distress, or any such amount that this Honourable Court deems appropriate;
 - (d) special damages for private nuisance and public nuisance, in the amount of \$70-million for business losses;
 - (e) special damages for private nuisance and public nuisance, in the amount of \$150-million for loss of wages;
 - (f) disgorgement of all funds raised by the Defendants for the purpose of facilitating the ongoing tortious conduct described herein;
 - (g) punitive damages in the amount of \$10-million;
 - (h) injunctive relief prohibiting the continuation of the tortious behaviour;

- (i) an injunction, declaration or order pursuant to section 101 of the *Courts of Justice Act*, RSO 1990, c C.43 restraining the Defendants and any of their respective affiliates, subsidiaries, successors and assigns, employees, agents, servants or representatives dissipating, alienating, transferring, assigning, encumbering or in any way dealing with assets fundraised or otherwise received or obtained by the Defendants or held on their behalf in any way related to the Freedom Convoy (the “Freedom Convoy Assets”) and an order preserving all Freedom Convoy Assets;
- (j) an order pursuant to section 101 of the *Courts of Justice Act*, RSO 1990, c C.43 that any Freedom Convoy Assets preserved or maintained further to such restraint or preservation order or otherwise preserved through the Escrow Agent appointed pursuant to the Order dated February 28, 2022, be preserved pending trial and post judgment, to permit any judgment in this action be enforced as against those assets;
- (k) pre-judgment and post-judgment interest in accordance with the *Courts of Justice Act*, as amended;
- (l) the costs of this action, including HST;
- (m) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to section 26 of the *Class Proceedings Act*, 1992, S O 1992, c. 6; and
- (n) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Since 2020, the COVID-19 pandemic has caused significant stress, severe illness, death and grief to people across Canada.

3. Governments at all levels across the country adopted public health measures to prevent severe illness and death from COVID-19. These public health measures caused significant disruption to the lives of every Canadian.

4. To express their political opposition to COVID-19 public health measures, the Defendants organized a "Freedom Convoy" of vehicles, including a large number of semi-tractor-trailer trucks, to travel from different parts of Canada and converge on the national capital of Ottawa and occupy its roads and streets for an indefinite period of time.

5. This class action is brought by the Plaintiffs on behalf of the residents, workers and businesses of downtown Ottawa who were harmed by the three-week Freedom Convoy occupation. The Defendants are responsible for organizing, encouraging, funding, facilitating or participating in the main coordinated tactics of the Freedom Convoy protest, being the deployment of semi-tractor-trailer trucks continuously idling and blocking the downtown streets of Ottawa while blasting ear-splitting air and train horns.

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

7. As planned by the organizers, the Freedom Convoy vehicles began to arrive in Ottawa on Friday, January 28, 2022, and the protests formally launched on Saturday, January 29, 2022. Unlike most protests, the Freedom Convoy decided to stay and keep protesting indefinitely until the Government of Canada met their demands of dropping all public health measures across Canada. The fact that public health measures are predominantly implemented by provincial governments did not deter the Defendants.

8. The Freedom Convoy protest turned into a prolonged and illegal occupation of downtown Ottawa, causing significant distress to residents and making it almost impossible for businesses to operate and people to work. During the course of the Freedom Convoy occupation of downtown Ottawa, the mayor of Ottawa and the premier of Ontario declared states of emergency, and the Government of Canada invoked the *Emergencies Act*, RSC 1985, c. 22 (4th Supp) to give law enforcement and federal authorities additional powers to bring the illegal and dangerous activities of the Freedom Convoy to an end on or about February 20, 2022.

9. A key tactic of the Freedom Convoy was blasting vehicle horns all day and into the night. These horns included the air horns and train horns on the many semi-trucks which blocked the streets of downtown Ottawa. Air horns and train horns emit noise in the range of 100 to 150 decibels and are designed to produce a warning from afar that a semi-truck is approaching. These horns are not meant to be used for longer than a few seconds because the sound levels are dangerous and can cause permanent damage to the human ear. Despite these known dangers, the Freedom Convoy semi-trucks were blasting these horns almost continuously for 12 to 18 hours per day, causing significant harm and distress to the residents of downtown Ottawa.

10. This claim was issued while the Freedom Convoy protest was ongoing. In the context of this action, the Plaintiff Zexi Li brought a motion for an injunction prohibiting the blasting of air horns and train horns in the area of downtown Ottawa. The Defendants Chris Barber, Tamara Lich and Benjamin Dichter opposed the injunction, but the Honourable Justice Hugh McLean granted the order for an interim

injunction on February 7, 2022. After the horn injunction, the Freedom Convoy participants stopped the constant horn blasting, but many still honked their horns together at different times, in breach of Mr Justice McLean's order.

11. Freedom Convoy vehicles remained parked on public streets and roads throughout the duration of the occupation, with their engines idling 24 hours per day. This led to the emission of noxious diesel fumes from 300 to 500 semi-trucks congregated in a relatively small area for 21 days in downtown Ottawa. This resulted in an unpleasant odour and, more seriously, caused irritation to the eyes and breathing of people in the downtown area. Prolonged exposure to diesel exhaust can cause acute, short-term and long-term health problems.

12. The historical neighbourhood around the Parliament Buildings in Ottawa is home to approximately 24,000 residents. These residents are used to the inconvenience of large demonstrations and protests. Sometimes they even join in if they support the cause. These residents understand and respect the importance of democratic freedoms, including the freedoms of association, assembly and expression. But they have never experienced anything like the constant and excruciatingly loud horns of the Defendants' Freedom Convoy and the prolonged occupation of their streets. For the approximately 24,000 residents who live closest to the protests, the non-stop blaring horns caused unbearable torment in the sanctity of their own homes.

13. Hundreds of businesses operate in downtown Ottawa with thousands of employees. The blocked roads, diesel fumes, and constant blasting of horns deterred customers and made it difficult to impossible for many businesses to operate. As a result, most businesses in downtown Ottawa closed entirely, causing significant losses. Most businesses that remained open saw a significant drop in revenue.

14. Over 60,000 people work in downtown Ottawa. Many were laid off or had shifts cancelled because their employer closed or restricted their operations due to the

public nuisance caused by the Freedom Convoy occupation. These employees lost wages over the course of the Convoy protest.

15. The Plaintiffs bring this class action in private nuisance and public nuisance against the Defendants for the serious harms and losses experienced by the residents, businesses and workers in downtown Ottawa.

16. The individual organizer Defendants were responsible for planning, calling for, promoting, inciting, coordinating and directing the Freedom Convoy protest in Ottawa.

17. There were approximately 400 semi-tractor trucks that participated in the Freedom Convoy protests. Acting together and in concert, these trucks blockaded the streets of downtown Ottawa. The drivers of these trucks also idled nearly 24 hours per day and emitted noxious diesel fumes. The drivers also participated in the honking dangerously loud air and train horns in a coordinated fashion at all hours of the day and night. This class action names Defendant class representatives for the owners of the trucks and the operators of the trucks.

18. Thousands of people donated funds to the Freedom Convoy protests with the purpose of facilitating, supporting and inciting the Freedom Convoy truckers to stay in Ottawa for as long as possible, honking horns and blocking streets, with the knowledge that these activities were or likely were substantially and unreasonably interfering with the residents, businesses and workers of downtown Ottawa. This class action names a Defendant class representative for donors who contributed funds to the Freedom Convoy truckers when the donors knew or ought to have known that the protest was participating in illegal activities and substantially interfering with residents, businesses and workers in downtown Ottawa.

PARTIES

19. The Plaintiff Zexi Li resides in Ottawa, Ontario, within five blocks of Parliament Hill and works in Ottawa for the Government of Canada.

20. The Plaintiff Happy Goat Coffee Company Inc (“Happy Goat”) is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44. The Plaintiff Happy Goat is an Ottawa business that purchases direct trade coffee, roasts the beans locally, and operates several coffee kiosk and café locations in and around Ottawa. The Plaintiff Happy Goat operates three locations within the affected area of downtown Ottawa, being cafés at 229 Rideau Street and 380 Sussex Drive and a kiosk at the Rideau Station on the O-Train Confederation Line under the Rideau Centre mall. The Plaintiff’s coffee business at those three locations was forced to close due to the Freedom Convoy occupation of downtown Ottawa.

21. The Plaintiff 7983794 Canada Inc., carrying on business as Union: Local 613, is a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44 (hereinafter “Union: Local 613”). The Plaintiff Union: Local 613 operates a restaurant at 315 Somerset Street West in Ottawa, Ontario. The Plaintiff’s restaurant business has been seriously affected by the presence of the Freedom Convoy in the neighbourhood.

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

23. The Defendant Chris Barber resides in Swift Current, Saskatchewan. He was one of the main organizers of the Freedom Convoy and was one of their official spokespersons. He is a truck driver and owns a trucking company in Saskatchewan. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-

profit corporation described further below. He was later criminally charged for his role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

24. The Defendant Benjamin Dichter resides in Toronto, Ontario. He was one of the main organizers of the Freedom Convoy, managing their communications strategy by organizing press conferences, social media and press releases, and acting as one of their official spokespersons. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below. Dichter also played an important role in fundraising Bitcoin cryptocurrency to further support, facilitate, encourage and incite the ongoing activities of the Freedom Convoy protest.

25. The Defendant Tamara Lich resides in Medicine Hat, Alberta. She was one of the main organizers of the Freedom Convoy and acted as a primary spokesperson. She created the Freedom Convoy Facebook page and coordinated the main Freedom Convoy fundraising activities on crowdsourcing platforms GoFundMe and GiveSendGo. She is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below. She was later criminally charged for her role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

26. The Defendant Patrick King resides in Red Deer, Alberta. He is one of the organizers of the Freedom Convoy occupation and regularly encouraged the participants to engage in the nuisance activities. He was later criminally charged for his role in organizing and encouraging the illegal activities associated with the Freedom Convoy protest.

27. The Defendant James Bauder resides in Alberta. He was one of the original organizers of the Freedom Convoy. He created the Canada Unity group and website and developed the original plan to occupy Ottawa, referred to below as "Operation Bearhug". He is the author of a Memorandum of Understanding on behalf of Canada

Unity that called for the Governor General and the Senate of Canada to take power from the Prime Minister and force federal and provincial governments to lift all public health measures related to the COVID-19 pandemic, including mask mandates and vaccine passports. He prepared the itineraries for the trucks to travel to Ottawa and he supported the ongoing nuisance activities of the Freedom Convoy, including and in particular the blockade of Ottawa streets.

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

29. The Defendant Daniel Bulford resides in Ottawa, Ontario. He is a former police officer and regular member of the Royal Canadian Mounted Police. He was one of the organizers of the Freedom Convoy activities while in Ottawa. He used his extensive policing experience and contacts to act as a liaison with law enforcement agencies on behalf of the Freedom Convoy protestors. He also played an important logistical and coordinating role in the tactical planning and execution of the tortious horn blasting and idling trucks.

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

31. The Defendant Chad Eros resides in Moose Jaw, Saskatchewan. He is a chartered accountant and, among other activities that supported the illegal protest, he played a key role in managing the funds raised, including distributing money to truck drivers and other Freedom Convoy participants to further the tortious behaviour set out in this claim. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

32. The Defendant Chris Garrah resides in Ottawa, Ontario. He was one of the organizers of the Freedom Convoy and, among other activities that supported the illegal protest, he played a role in collecting and distributing money to truck drivers and other participants to further the tortious behaviour set out in this claim. He created the Adopt-a-Trucker campaign on the GiveSendGo fundraising platform. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

33. The Defendant Miranda Gasior resides in Lloydminster, Saskatchewan. She was one of the organizers of the Freedom Convoy and, among other activities that supported the illegal protest, she played a role in collecting and distributing money to truck drivers and other participants to further the tortious behaviour set out in this claim. She is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

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

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

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

37. The Defendant Ryan Mihilewicz resides in Prince Albert, Saskatchewan. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison

with truck drivers from Saskatchewan who travelled to Ottawa to engage together in the tortious behaviour set out in this claim.

38. The Defendant Sean Tiessen resides in Grand Forks, British Columbia. He was one of the organizers of the Freedom Convoy and acted as a “captain” and liaison with truck drivers from British Columbia who travelled to Ottawa to engage together in the tortious behaviour set out in this claim. He is also a director of the Defendant Freedom 2022 Human Rights and Freedoms, a non-profit corporation described further below.

39. The Defendant Nicholas St. Louis resides in Ottawa, Ontario. He is a cryptocurrency enthusiast who uses the Twitter account “@NobodyCaribou” and operates the Bitcoin Stoa website and Youtube channel. He refers to himself as the “Bitcoin Team Lead” and was responsible for raising Bitcoin donations to support the Freedom Convoy and distributing Bitcoin wallets to Freedom Convoy truckers.

40. The Defendant Freedom 2022 Human Rights and Freedoms (“Freedom 2022”) is a not-for-profit corporation incorporated on January 30, 2022 under the *Canada Not-for-profit Corporations Act*, SC 2009, c. 23. Freedom 2022 was established for the purpose of receiving and distributing money raised in support of the Freedom Convoy 2022 through fundraising campaigns hosted by online crowdfunding platforms such as GiveSendGo. It was incorporated after the crowdfunding platform GoFundMe suspended the Freedom Convoy 2022 fundraising account, which had been organized by the Defendants Lich and Dichter. The Defendants Dichter, Eros, Gasior, Lich, Barber, Garrah and Tiessen are all named directors of the Defendant Freedom 2022.

41. The Defendant GiveSendGo LLC (“GiveSendGo”) is a corporation based in the state of Delaware, United States of America. The Defendant GiveSendGo provides a crowdfunding platform that allows people to raise funds from donations for a range of events and causes. GiveSendGo posts a page on its website for the fundraising campaigns for clients and collects donated money for a fee of 2.9% of the funds raised. GiveSendGo agreed to host a fundraising campaign for the Freedom Convoy

after GoFundMe, another crowdfunding platform, suspended a Freedom Convoy fundraising campaign because of concerns the donated money was going to support illegal activity.

42. The Defendant Jacob Wells resides in Virginia Beach, Virginia, United States of America, and has been the Chief Executive Officer of GiveSendGo since 2013. The Defendant Wells approved of the Freedom Convoy fundraising campaign on GiveSendGo with knowledge that GoFundMe viewed the activities as illegal. When the Defendant Freedom 2022 encountered difficulties opening a bank account in Canada due to the activities of the Freedom Convoy protest, the Defendant Wells agreed to help by personally facilitating the fundraising campaign and holding any funds collected on behalf of Freedom 2022 and the Freedom Convoy protesters.

43. The Defendants Barber, Dichter, Lich, King, Bauder, Belton, Bulford, Enns, Eros, Garrah, Gasior, Janzen, LaFace, Marazzo, Mihilewicz, Tiessen and St. Louis are responsible for the planning, strategy, organizing, fundraising, material support, logistics, and tactics of the Freedom Convoy occupation, including the tortious behaviour described further below, and are hereinafter referred to as the "Organizer Defendants". The Defendant Freedom 2022 was created by the other Organizer Defendants as a conduit for funds and is also an Organizer Defendant. The Defendants GiveSendGo and Wells materially contributed to the fundraising for the Freedom Convoy protest when they knew or ought to have known the Freedom Convoy activities were illegal and substantially and unreasonably interfering with the lives of the residents, businesses and workers in downtown Ottawa, and both are also referred to hereinafter as Organizer Defendants.

44. The Defendant Harold Jonker resides in, and at the time of the events in question was a councillor for, the West Lincoln township of Ontario. He owns and operates a trucking business, the Defendant Jonker Trucking Inc. The Defendant Jonker personally drove a semi-tractor truck to Ottawa and participated in the tortious activities of the Freedom Convoy protest. The Defendant Jonker was a vocal

and active participant in the Freedom Convoy, giving numerous media interviews to support, encourage and promote the ongoing occupation of Ottawa. The Defendant Jonker also acted as a road captain for Southwestern Ontario and encouraged and incited others to take part. The Defendant Jonker is a proposed representative Defendant on behalf of all drivers who operated semi-tractor trucks and used those trucks in the tortious activities described in this claim (the “Trucker Class Defendants”, described in further detail below).

45. The Defendant Jonker Trucking Inc. (“Jonker Trucking”) is a corporation in Caistor Centre, Ontario, that owns and operates over 12 semi-tractor trucks. The Defendant Jonker Trucking owned at least 11 semi-tractor trucks that were driven to Ottawa and used to participate in the tortious activities of the Freedom Convoy protest. The Defendant Jonker Trucking was aware of its trucks being used in this manner. The Defendant Jonker Trucking is a proposed representative Defendant on behalf of all owners of semi-tractor trucks that were used for the tortious activities described in this claim (the “Trucker Class Defendants”, described in further detail below).

46. Brad Howland is a successful businessman who resides in Kars, New Brunswick, and owns the corporation Easy Kleen Pressure Systems Ltd., which is based in Sussex, New Brunswick. Howland supported the activities of the Freedom Convoy and through his company donated \$75,000 USD on or about February 9, 2022, to GiveSendGo to support, encourage and facilitate the ongoing tortious and unlawful activities of the Freedom Convoy protest. He personally travelled to Ottawa and participated in the Freedom Convoy protest on February 11-12, 2022. The Defendant Howland is the proposed representative Defendant on behalf of all those who donated to the Freedom Convoy after February 4, 2022 (the “Donor Class Defendants”). By this date, the Donor Class Defendants knew or ought to have known that the Freedom Convoy participants, including the Trucker Class Defendants, were committing the tortious acts and unlawful behaviour described further below. The Donor Class Defendants donated funds to the Freedom Convoy with the intention of encouraging and facilitating those acts.

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

OCCUPATION ZONE AND PLAINTIFF CLASSES

48. The Defendants engaged in a common design to occupy downtown Ottawa for an indefinite period with semi-trucks and semi-truck-trailers, to blockade the roads and streets, and to create excessive noise and other disturbances to substantially interfere with and cause distress to everyone who lives, works or runs a business in downtown Ottawa, with the primary objective of compelling the Government of Canada, and other levels of government in Canada, to immediately drop all public health measures related to COVID-19.

49. The area of downtown Ottawa that the Trucker Defendants completely or partially blockaded, and in which they caused extreme noise and air pollution, is hereinafter referred to as the "Occupation Zone", and is bounded in the following way:

All addresses and properties on either side of Wellington Street from Booth Street to MacKenzie Avenue, MacKenzie Avenue from Wellington Street to St. Patrick Street, St. Patrick Street from MacKenzie Avenue to Sussex Drive, Sussex Drive from St. Patrick Street to Boteler Street, Boteler Street from Sussex Drive to King Edward Avenue, King Edward Avenue from Boteler Street to Murray Street, Murray Street from King Edward Avenue to Beausoleil Drive, Beausoleil Drive from Murray Street to Friel Street, Friel Street from Beausoleil Drive to Laurier Avenue East, Laurier Avenue East from Friel Street to Waller Street, Waller Street from Laurier Avenue to Nicholas Street, Nicholas Street from Waller Street to Laurier Avenue, Laurier Avenue from Nicholas Street to the Queen Elizabeth Driveway, Queen Elizabeth Driveway from Laurier Avenue to Somerset Street West, Somerset Street West from Queen Elizabeth Driveway to Bay Street, Bay Street from Somerset Street West to Lisgar Street, Lisgar Street from Bay Street to Bronson Avenue, Bronson Avenue from Lisgar Street to Slater Street, Slater Street from Bronson Avenue to Albert Street, Albert Street from Slater Street to Booth Street, Booth Street from Albert Street to Wellington Street.

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



51. 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 Class.

52. The Plaintiffs Happy Goat and Union: Local 613 bring this action pursuant to the *Class Proceedings Act, 1992* on their own behalf and on behalf of all other businesses that operate within the Occupation Zone in downtown Ottawa and experienced business losses due to tortious behaviour of the Defendants, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Business Class.

53. The Plaintiff Geoffrey Devaney brings this action pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all other persons who work as employees within the Occupation Zone in downtown Ottawa and experienced wage loss due to the tortious behaviour of the Defendants, excluding those who contributed to and/or actively supported the Freedom Convoy, hereinafter known as the Employee Class.

DEFENDANT CLASSES

54. There were approximately 400 semi-trailer trucks parked on downtown Ottawa streets at some point from January 29, 2022 to February 19, 2022, taking part in the Freedom Convoy demonstration.

55. The Defendant Jonker is a successful long-haul semi-tractor truck owner and operator. He drives semi-tractor trucks himself and owns the Defendant Jonker Trucking. The Defendant Jonker was an active and vocal participant in the Freedom Convoy protest, giving several media interviews. The Defendant Jonker engaged in the tortious activities described below and also has the means to represent the interests of other semi-tractor truck operators who participated in the Freedom Convoy occupation.

56. The Defendant Jonker Trucking is a corporation owned by the Defendant Jonker. At least 11 semi-tractor trucks owned by the Defendant Jonker Trucking participated in the tortious activities described below with the knowledge or at the direction of the Defendant Jonker Trucking. The Defendant Jonker Trucking has the means to represent the interests of other semi-tractor truck owners with trucks that were used in the Freedom Convoy occupation.

57. Together, the Defendants Jonker and Jonker Trucking ought to be appointed as representative defendants pursuant to the *Class Proceedings Act, 1992* on their own behalves and on behalf of all operators and owners of semi-tractor trucks that were parked within the Occupation Zone in downtown Ottawa at any time between January 29, 2022, and February 20, 2022, and/or which honked air horns or train horns during the protest, blocked streets, and idled their engines. This class of Defendants are referred to in this claim as the Trucker Class Defendants.

58. Several thousand people from across Canada and abroad donated money to support the Freedom Convoy and to encourage, assist and incite the Trucker Class Defendants to remain in Ottawa in the Occupation Zone for as long as possible. Any person donating funds to the Freedom Convoy truckers on or after February 4, 2022, knew or ought to have known that the truckers were engaged in tortious or illegal activity and were substantially and unreasonably interfering with the residents, businesses and workers of downtown Ottawa.

59. The Defendant Howland is a successful businessman who resides in New Brunswick. He donated US\$75,000 (over \$95,000 CAD) to the Freedom Convoy through GiveSendGo after February 4, 2022. He was a vocal supporter of the Freedom Convoy protests, giving media interviews and personally visiting Ottawa to participate on or about February 10, 2022. The Defendant Howland has the means to represent the interests of all donors to the Freedom Convoy and ought to be appointed as the representative defendant pursuant to the *Class Proceedings Act, 1992* on his own behalf and on behalf of all donors to the Freedom Convoy protest on or after February 4, 2022.

ORGANIZING THE FREEDOM CONVOY OCCUPATION

60. In early January 2022, the Defendants Barber, Bauder and Belton decided to organize a protest in Ottawa to pressure or compel the Government of Canada to withdraw all COVID-19 public health measures. They discussed and created a common plan to organize a convoy of vehicles, including a large number of semi-trailer trucks, to travel from different parts of Canada and converge in the national capital of Ottawa. Originally called "Operation Bearhug", the plan was to cause heavy traffic with large vehicles and create gridlock by occupying downtown Ottawa for several days.

61. In January 2022, the Defendant King had a very popular Facebook account, called "therealpatking", where he regularly posted recorded videos or streamed live video, providing commentary and opinions. His videos and streams regularly attracted 100,000 to 200,000 views. The Defendants Barber, Bauder and Belton were in contact with the Defendant King on or about January 11, 2022, to recruit him to promote their plan for a convoy to Ottawa.

62. The Defendant King posted his first video promoting the convoy plan on January 12, 2022. The video attracted thousands of 'likes' and comments.

63. On January 13, 2022, the Defendant Lich spoke to the Defendant Barber and became part of the organizing group. The Defendant Lich offered to raise funds to assist truckers and others to travel to Ottawa.

64. On January 13, 2022, the Defendant King hosted a virtual meeting on his Facebook page and streamed the video to his thousands of followers. The Defendants King, Barber, Bauder, Belton, Enns and Janzen all participated in the livestream. The group discussed the planning of itineraries and recruiting regional road captains, and told their viewers that information would be posted soon on the Defendant Bauder's website, www.canadian-unity.com. The group also discussed a new name for the common venture - "Freedom Convoy 2022".

65. On January 14, 2022, the Defendant Lich created a Facebook page called “Freedom Convoy 2022” which was described as a “meeting place to discuss logistics, organization and mobilization to restore our Freedoms”. The Defendants used this Facebook page to discuss logistics, organization and mobilization for the Freedom Convoy. The initial administrators for the Freedom Convoy Facebook page were Lich and Barber.

66. The Defendant Lich recruited the Defendant Dichter to help organize communications, act as a spokesperson and develop public relations strategy.

67. The Defendant Barber also made the Defendant King an administrator of the Freedom Convoy Facebook page. Later, the Defendant Dichter became an administrator for the Freedom Convoy Facebook page.

68. On or around January 14, 2022, the Defendant Lich created a page for the Freedom Convoy on the crowdsourced fundraising website GoFundMe. The Defendant Lich was listed as the organizer of this GoFundMe page, and the Defendant Dichter was listed as a Team Member.

69. The Defendant Bauder developed the itineraries from across Canada, with a planned arrival in Ottawa on January 29, 2022. The Defendants Bauder and King drew on their networks of contacts and followers to recruit regional captains from each province who could organize and coordinate the convoy locally.

70. On or about January 16, 2022, the Defendants posted the itineraries and contact information for regional captains on the Defendant Bauder’s Canadian Unity website and the Freedom Convoy Facebook page.

71. The Defendant King continued to host Facebook livestreams promoting the Freedom Convoy plan and providing updates to his approximately 300,000 followers.

72. The Defendants Barber, Bauder, Belton, Lich, King and others developed an outline of their plan. It was decided that the demonstration would not be for a few days. Instead, the plan was to occupy downtown Ottawa for an indefinite period until their political demands were met. The common intention of the Defendants was to substantially interfere with and disturb all downtown Ottawa residents and businesses with their occupation, and thereby coerce the Government of Canada to meet their demands to repeal all COVID-19 public health measures.

73. The Defendant Lich's GoFundMe fundraising campaign was highly successful and raised approximately \$1-million by January 21, 2022. The successful fundraising campaign persuaded many of the Trucker Class Defendants to join the Freedom Convoy and travel to Ottawa.

74. On the GoFundMe page, the Organizer Defendants discussed the logistics and organization for the Freedom Convoy and solicited donations from supporters to assist them with their common plan to travel to and occupy Canada's capital, and to seriously interfere with the rights of the class members.

75. The Organizer Defendants divided responsibilities among themselves for: (i) attracting and mobilizing Trucker Defendants to join their enterprise; (ii) planning the logistics of feeding, fuelling and providing supplies to a convoy of vehicles driving to and then occupying Ottawa for an indefinite period; and (iii) fundraising to support the entire enterprise. The Organizer Defendants also decided on leaders, spokespersons, and "captains" for different regions who acted as primary liaisons with the Trucker Class Defendants.

76. The Organizer Defendants and Trucker Class Defendants discussed and coordinated plans for how they would occupy Ottawa and how they would attempt to reach their common goals.

77. The Defendants Lich and Barber prepared a Code of Conduct and registration forms for Freedom Convoy truckers and asked the road captains to collect the forms from the participants.

78. The Freedom Convoy departed from Surrey, British Columbia on January 23, 2022. The Defendants Lich, Barber and King joined the convoy in Alberta on or about January 24, 2022.

79. The Defendant Sean Tiessen was a road captain for British Columbia and joined the convoy on or about January 24, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

80. The Defendant Miranda Gasior was a road captain for Saskatchewan and joined the convoy on or about January 24, 2022. She promoted the Freedom Convoy on her Facebook page, "Saskatchewan Citizens Uncensored", and personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

81. The Defendant Ryan Mihilewicz was a road captain for Saskatchewan and joined the convoy on or about January 24, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

82. The Defendant Dale Enns was a road captain for Manitoba. He was responsible for registering and organizing a group of about 100 truckers who joined the convoy. The Defendant Enns joined the convoy in Manitoba on January 26, 2022. The Defendants personally paid for the expenses of many truckers because funds from GoFundMe were not released yet.

83. The Defendant Joe Janzen was also a road captain for Manitoba and joined the convoy on January 26, 2022. He also personally organized a large group of truckers, including Trucker Class Defendants, and collected their registration information for the leadership group.

84. The Defendant Harold Jonker was a road captain for the Niagara region of Ontario. He personally organized a large group of truckers, including Trucker Class Defendants who operated at least ten other semi-tractor trucks owned by his company, the Defendant Jonker Trucking. The Defendant Jonker and the Trucker Class Defendants operating semi-tractor trucks owned by the Defendant Jonker Trucking congregated in Caistor Centre, Ontario, on or about January 26, 2022, and departed to join the convoy.

85. The Organizer Defendants planned, organized, encouraged and directed Trucker Class Defendants and other Freedom Convoy participants to occupy Ottawa streets continuously with their vehicles running 24 hours per day.

86. One of the main tactics planned by the Defendants, in support of their goal of forcing the federal government to capitulate to their demands, was for participants to make as much noise as possible when stationed in downtown Ottawa. To make that noise, the Organizer Defendants planned, organized, encouraged and directed Trucker Class Defendants and other Freedom Convoy participants to continuously blast the horns of their vehicles, as described further below.

SETTING UP IN OTTAWA AND CREATING THE OCCUPATION ZONE

87. Starting on or around Friday, January 28, 2022, Freedom Convoy vehicles started to arrive in Ottawa. These vehicles included semi-trailer trucks, semi-tractors with no trailers, passenger vehicles, and large recreational vehicles. This included some of the Trucker Class Defendants.

88. The Defendant Jonker was one of the first truck drivers to arrive in Ottawa on January 28, 2022, and parked his semi-tractor truck on Wellington Street, close to the Parliament Buildings.

89. When Freedom Convoy vehicles arrived in Ottawa, including some of the Trucker Class Defendants, as planned they congregated and began to block the streets around Parliament Hill and in the surrounding neighbourhoods. This was part of the Organizer Defendants' plan to "gridlock" downtown Ottawa.

90. The Defendant Garrah helped establish an operations centre in Ottawa to coordinate the Freedom Convoy activities. The Defendant Garrah paid for computers and other equipment and rented space and hotel rooms in the Swiss Hotel on Daly Avenue in Ottawa. When the Defendants Lich and Barber arrived in Ottawa, they became the key leadership figures at the Swiss Hotel operations centre.

91. The Defendant Garrah paid for the computers, equipment and Swiss Hotel space from funds raised from his Adopt-A-Trucker campaign on GiveSendGo. The Defendant Garrah also paid for portable toilets, barbecues, food, and a wide range of other supplies from the Adopt-a-Trucker funds.

92. The Defendant Chad Eros worked primarily out of the Swiss Hotel operations centre. He was responsible for managing funds and expenses, including large amounts of cash donations. The Defendant Eros directed other organizers to keep records of those donating cash and to provide him with that information so all receipts could be properly tracked.

93. The Defendant Daniel Bulford worked primarily out of the Swiss Hotel operations centre. He helped with the information technology and managed "security" for the Freedom Convoy. Among others, he communicated with law enforcement on behalf of the Freedom Convoy and would communicate security concerns or issues to the Freedom Convoy leaders and participants.

94. Several hundred vehicles remained camped out in Ottawa's downtown from January 28, 2022, until February 20, 2022, lined up bumper-to-bumper. The clusters of vehicles were predominantly concentrated on Sir John A. MacDonald Parkway, Wellington Street, Rideau Street, Kent Street, Bank Street, Metcalfe Street, Elgin Street, Laurier Avenue West, Laurier Avenue East, King Edward Avenue and Waller

Street. On some days, particularly on weekends, many other trucks and vehicles joined the Convoy occupation, with trucks blocking many other downtown Ottawa streets for days at a time.

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

96. In furtherance of the common design of the Defendants, the trucks remained running all day and night, with other Freedom Convoy participants organizing the delivery of fuel in jerry cans, food, and other supplies to the drivers. The Organizer Defendants Tiessen, King, Mihilewicz, Enns, Janzen, LaFace, Belton and Bulford were responsible for organizing and coordinating the delivery of supplies to drivers.

97. These large vehicles remained idling 24 hours per day for the duration of the Freedom Convoy protest, emitting noxious diesel fumes, particulates and gases.

PLANNING AND LOGISTICS

98. In furtherance of their common design, the Organizer Defendants set up a staging area to stockpile fuel and other supplies for the occupying trucks, and to arrange and coordinate delivery of these supplies. For logistical reasons, the Organizer Defendants established the staging area outside of the Ottawa downtown core. The Organizer Defendants Bulford and Marazzo relied on their military and police skills and expertise to manage these logistics, which were designed to avoid, frustrate or thwart any effort by authorities to break the supply lines of fuel and food to the Trucker Class Defendants in the Occupation Zone.

99. The Freedom Convoy staging area was established by the Organizer Defendants in a parking lot at Raymond Chabot Grant Thornton Park, a baseball stadium at 300 Coventry Road. The location became a permanent encampment known as "Coventry". Diesel fuel deliveries were organized twice per day at Coventry, with the fuel later being ferried into the Occupation Zone to the idling semi-tractor trucks.

100. The Defendants Lich, Barber and King individually visited the Coventry staging location on a number of occasions to thank, encourage and inspire the individuals there who were managing the purchase, storage and delivery of fuel and food to Trucker Class Defendants in the Occupation Zone.

101. In furtherance of their common design, the Defendants established communication lines between each other and with other Freedom Convoy participants and supporters. The Organizer Defendants often communicated to the occupation participants through live stream videos on various social media channels, including Facebook, YouTube, Tiktok and Telegram. A “hot line” was created so truck drivers and other occupation participants could call with any immediate needs or concerns. The Defendants also communicated with each other through other applications such as Zello. The Organizer Defendants also communicated with each other through texts and group texts.

102. In furtherance of their common design, the Defendants Barber, Lich, Eros, Garrah, Dichter, and Bulford met daily at the operations centre in the Swiss Hotel to plan and discuss the strategy, funding, tactics and logistics of the ongoing occupation.

103. In furtherance of their common design, the Organizer Defendants also established a “war room” located closer to the centre of the Occupation Zone. The war room was set up at the Arc Hotel at 140 Slater Street. Freedom Convoy occupiers in need of food, lodging, or other supplies would contact the war room to request financial and logistical support. The Defendants Belton, Enns, Gasior, Janzen, Laface, Mihilewicz and Tiessen would often meet at or visit the war room in the Arc Hotel to learn updates about funding and other strategic issues. Other road captains and “street captains” would attend at the Arc Hotel to provide information and get updates.

104. The Defendant Marazzo maintained a large map of Ottawa at the Arc Hotel war room where he tracked and managed the placement and movement of trucks.

105. During the course of the Freedom Convoy occupation, and in furtherance of their common design, the Organizer Defendants ensured that, in addition to free diesel fuel, cash was distributed to the Trucker Class Defendants. Trucker Class Defendants received envelopes of cash collected by the Organizer Defendants. These envelopes would sometimes contain as much as \$500.

106. In furtherance of their common design, the Organizer Defendants held regular press conferences to communicate their message and to encourage truckers, including the Trucker Class Defendants, and others to continue their participation in and support for the occupation.

107. The Defendant Dichter organized many of the main news conferences and put out press releases. The Defendants Dichter, Barber and Lich held a press conference at the Swiss Hotel on January 30, 2022. Updates on the fundraising and other activities were discussed. The Defendant Dichter told the press conference that semi-trucks were “designed to be on the road...for an indefinite period of time”. Dichter added that the millions donated through GoFundMe would ensure that trucks would have a steady supply of fuel, and therefore could remain on the streets for a year or more.

108. The Defendant Lich spoke at many press conferences, including one at the Marriott Hotel on February 3, 2022, where she warned the people of Ottawa directly that the Convoy occupation would continue until the federal government ended all COVID-19 public health mandates and restrictions. The Defendant Bulford spoke at the same February 3 press conference, providing updates on the protest organization and fundraising efforts.

109. The Defendants Lich, Barber, Belton and Marazzo held a press conference on February 8, 2022. In addition to discussing fundraising and other logistical issues, the Defendant Marazzo suggested that the opposition political parties in the House of Commons and the Governor General of Canada should meet with the Defendants to discuss what’s best for Canada.

HORN TACTIC AND OTHER EXTREME NOISE

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

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

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

113. As one example of this, on January 31, 2022, the Defendant King posted a YouTube video instructing all Freedom Convoy "truckers" to collectively honk for ten minutes straight every hour and half hour.

114. The Trucker Class Defendants would also sometimes get their directions on horn honking from captains who attended daily meetings at the "war room" in the Arc Hotel.

115. Initially, the honking schedule would last from approximately 7AM to 1AM. On or around February 1, 2022, the Defendants coordinated a new schedule for the honking from approximately 8AM to 11PM.

116. The Defendants celebrated the honking on social media to encourage participants to continue the horn honking tactic to disturb residents and others in downtown Ottawa.

117. The types of horns that were employed by the Trucker Class Defendants as part of the horn-blasting tactic included air horns and train horns, both of which are designed only to be used for safety warnings to those who are far away.

118. The Defendants were aware that the honking noise was extreme and could cause harm or distress. The Organizer Defendants purchased ear plugs in bulk and distributed them to protestors to protect themselves from the extreme sound levels of their horn tactic while it disturbed and caused harm to the plaintiff class members.

RAISING FUNDS TO ENCOURAGE AND SUPPORT CONVOY

119. The raising, collection and disbursement of funds to support the unlawful activities of the Freedom Convoy participants were one of the primary means by which the common design was effected by the Defendants. The Organizer Defendants raised and disbursed funds for the express purpose of supporting the indefinite truck blockade of public streets and roadways, the non-stop idling of trucks and associated air pollution, and the extreme and incessant horn honking in the Occupation Zone.

120. On or around January 14, 2022, the Organizer Defendants created a page for the Freedom Convoy on the crowdsourced fundraising website GoFundMe. The Defendant Lich is listed as the organizer of this GoFundMe page, and the Defendant Dichter is listed as a Team Member.

121. The Defendant Lich also received over \$500,000 in donations for the Freedom Convoy that were sent to her personally by e-transfer by over 3,000 people.

122. The Defendant Garrah created the Adopt-A-Trucker fundraiser on the GiveSendGo fundraising platform on or about January 25, 2022. The Defendant Garrah's Adopt-A-Trucker campaign raised over \$750,000 Canadian on GiveSendGo before it was disabled on or about February 13, 2022. A significant proportion of these funds were spent by the Defendant Garrah on hotel rooms, computers, equipment, fuel, food and other supplies.

123. The Organizer Defendants communicated to Freedom Convoy participants, including the Trucker Class Defendants, that they would raise money through GoFundMe and other means to pay for their expenses for as long as they stayed in Ottawa. The Organizer Defendants regularly communicated the amount of funds raised in order to encourage and incentivize Trucker Class Defendants to travel to Ottawa and to stay and occupy the city.

124. On or about January 30, 2022, the Defendants Garrah and Eros created the Defendant non-profit corporation Freedom 2022 Human Rights and Freedoms, in order to pool and spend the enormous sums that were being raised. By that date, over \$10-million had been raised on GoFundMe, the Adopt-A-Trucker GiveSendGo campaign, and personal donations to the Organizer Defendants.

125. On February 2, 2022, GoFundMe announced that it was monitoring the Defendants' fundraiser to ensure it complied with the company's "Terms of Service". One of GoFundMe's Terms of Service is that funds raised cannot be used for the implicit or explicit purpose of promoting or supporting the violation of any laws. GoFundMe asked the Defendant Lich for assurances that none of the funds would be distributed to anyone suspected of acting unlawfully.

126. On February 4, 2022, GoFundMe announced that it was immediately suspending the Freedom Convoy fundraiser, stating that it was in violation of the company's "Terms of Service". In a statement, GoFundMe said that "the previously peaceful demonstration has turned into an occupation".

127. A few hours after GoFundMe's statement on February 4, 2022, the Defendant Lich posted a video on Facebook saying the organizers would use a new fundraising platform, the Defendant GiveSendGo, to raise funds to support the convoy. She said that GiveSendGo would be used to get funds into the hands of truckers "quicker", and asked people to donate, saying "you can support the truckers that are on the ground here at the moment" and to "help us keep these truckers going". She added, "You know we plan to be here for the long haul."

128. By February 4, 2022, numerous news reports had been published and broadcast on the trucks blocking streets in Ottawa, the diesel fumes created by the trucks, and the disturbance caused by the constant horn honking. There were also numerous news stories that GoFundMe had suspended the Freedom Convoy fundraising campaign because of reports of unlawful activity by protesters. Television and online news stories on these subjects were broadcast and published nationally and internationally between January 29, 2022 and February 5, 2022 by news organizations such as CBC, the Ottawa Citizen, Fox News, CNN, the Toronto Star, the Winnipeg Free Press, the Washington Post, CTV News, Global News, the Western Standard, BBC, the Toronto Sun, the Calgary Sun, USA Today, the Globe and Mail, and many others.

129. The Defendant GiveSendGo has terms of service that provide that the platform cannot be used to raise funds that encourage, promote, facilitate or instruct others to engage in illegal activities. Despite the widespread news reports of illegal activities by participants in the Freedom Convoy in Ottawa, and the fact that GoFundMe suspended its Freedom Convoy campaign due to illegal activities, the Defendant GiveSendGo agreed on or about February 4, 2022, to host a Freedom Convoy fundraising campaign. In doing so, the Defendant GiveSendGo encouraged and supported the tortious activities of the other Defendants and furthered their common design. As such, the Defendant GiveSendGo is a joint tortfeasor with the other Defendants and is jointly and severally liable for the damages caused.

130. Any person who donated funds to the Freedom Convoy protest on or after February 4, 2022, through the Defendant GiveSendGo or by other means, knew or ought to have known about the tortious activities of the Trucker Class Defendants. Persons who donated funds to the Freedom Convoy on or after February 4, 2022, did so expressly to provide support to the Trucker Class Defendants so they could continue with their activities of blocking the streets of Ottawa, idling their trucks, and blaring their horns.

131. The Defendants GiveSendGo and Jacob Wells were informed by the Defendants Barber, Lich and Eros that the Defendant Freedom 2022 was encountering difficulties in opening a bank account. The Defendant Wells agreed to personally assist the Defendants Freedom 2022, Lich, Barber and Eros by opening an “interim” bank account and to hold the funds raised on GiveSendGo in trust for the benefit of the Defendant Freedom 2022.

132. The Defendants Wells, Freedom 2022, Lich and Eros signed an agreement on February 9, 2022, that provided that the Defendant Wells would hold funds raised for the Freedom Convoy in trust until the Defendants Freedom 2022, Lich and Eros could find a Canadian bank that would agree to open an account. In doing so, the Defendant Wells encouraged and supported the tortious activities of the other Defendants and furthered their common design. As such, the Defendant Wells is a joint tortfeasor with the other Defendants and is jointly and severally liable for the damages caused.

133. The Organizer Defendants provided regular updates on the funds raised on GiveSendGo. By the time the Freedom Convoy 2022 GiveSendGo fundraiser was suspended on February 13, 2022, it had raised over \$12-million Canadian. This emboldened and incited the Trucker Class Defendants to continue with their tortious behaviour described herein.

134. The Defendants St. Louis and Dichter established a Bitcoin fundraiser, called “HonkHonkHodl”, on or about February 9, 2022 to raise funds to reimburse the Trucker Class Defendants for expenses, food, fuel, and repairs and to encourage them to remain in Ottawa and continue their tortious behaviour for as long as possible.

135. The Defendants St. Louis and Dichter held a press conference that streamed on Facebook on or about February 9, 2022. They explained that the goal of the Bitcoin fundraiser was to “receive global donations without obstruction” and to provide an “endowment” to reward Trucker Class Defendants for their participation in the

protest. The Defendant St. Louis told potential Bitcoin donors that the protest was “an endurance game” .

136. The “HonkHonkHodl” Bitcoin fundraiser raised over 220 Bitcoin units, worth approximately \$1,750,000 at the time.

137. On or about February 15, 2022, the Defendant St. Louis personally distributed envelopes to Trucker Class Defendants with Bitcoin wallet passwords that gave access to approximately \$1,000 in Bitcoin, according to Bitcoin values at the time.

138. The Defendant King established a cryptocurrency token on or about February 11, 2022 to raise funds to reimburse the Trucker Defendants for expenses, food, fuel, and repairs to encourage them to remain in Ottawa and continue their unlawful activities and tortious behaviour.

139. The Organizer Defendants decided to raise funds through Bitcoin and other cryptocurrencies because they were aware that the ongoing activities of the protest were illegal and were concerned that money donations could be subject to seizure by law enforcement, governments, or banks concerned with facilitating illegal activities.

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

141. Many Donor Class Defendants who contributed money to the GiveSendGo fundraiser added comments such as “keep up the good fight”, “honk honk”, “the honking will continue until freedom improves”, and so on.

142. The Donor Class Defendants encouraged and incited the ongoing tortious behaviour of the Trucker Class Defendants by donating funds to the cause, through GiveSendGo or other means, on or after February 4, 2022. By knowingly assisting or

encouraging the Trucker Class Defendants to commit the tortious behaviour described herein, the Donor Class Defendants furthered the common design of the other Defendants, and are joint tortfeasors and jointly and severally liable for the damages caused.

DEFENDANTS' CONDUCT WAS UNLAWFUL

143. The blasting of horns by the Trucker Defendants was prohibited by sections 2, 3 and 15 of the City of Ottawa Noise By-Law, By-Law No. 2017-255.

144. Section 2 of By-Law No. 2017-255 states that no person shall cause or permit any bass noise, unusual noise or noise likely to disturb the inhabitants of the City. Section 3 of By-Law No. 2017-255 states that no person shall cause or permit the ringing of any bell, sounding of any horn, or shouting in a manner likely to disturb the inhabitants of the City. Section 15 of By-Law No. 2017-255 states that no person shall cause or permit unnecessary motor vehicle noise such as the sounding of the horn.

145. The Defendants' horn-blasting tactic also violated subsection 75(4) of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8, which prohibits unnecessary noise. Pursuant to subsection 75(4), a person having control or charge of a motor vehicle is prohibited from sounding any bell, horn or other signalling device so as to make an unreasonable noise, and is also prohibited from causing a motor vehicle to make unnecessary noise.

146. The level of noise emitted by the Trucker Defendants also exceeded the noise levels that would be permitted in a workplace setting, contrary to the *Canada Occupational Health and Safety Regulations*, SOR/86-304 issued pursuant to the *Canada Labour Code*, RSC, 1985 c. L-2, and the *Ontario Noise Regulation 381/15* issued pursuant to the *Occupational Health and Safety Act*, RSO 1990, c. 01.

147. The Defendants' horn-blasting also constitutes conduct that violates the *Criminal Code of Canada*, RSC 1985, c C-46 pursuant to sections 175(1)(d) (Cause Disturbance), 180(1)(s) (Common Nuisance), 266 (Assault), and 430(1)(d)(Mischief).

148. Exposure to loud noise for a prolonged period of time and sleep deprivation are both techniques that have been found to constitute torture, and are considered to be cruel, inhumane and degrading treatment under international law.

149. The Defendants' conduct of idling vehicles and blocking roads was unlawful, violating the following By-Laws of the City of Ottawa: Use and Care of Roads By-law 2003-498; Idling Control By-Law 2007-266; and Encroachment By-Law 2003-446.

150. The Defendants' conduct with respect to the continuous idling of vehicles and emission of noxious diesel fumes also constitutes a violation of section 75(4) of the *Highway Traffic Act*. Under this section, a driver of a motor vehicle shall not permit any unreasonable amount of smoke to escape from the motor vehicle.

151. The Defendants' conduct in blocking public roads and streets without a permit is in violation of City of Ottawa By-laws. While blocking roads and streets may be exempt from By-laws as a protected activity where doing so is in the course of exercising the freedoms of peaceful assembly, association and expression under sections 2(b), (c) and (d) of the *Canadian Charter of Rights and Freedoms*, extended blocking of traffic over a prolonged period in a serious and sustained manner is unreasonable and unjustifiable, particularly when it is accompanied by tactics and behaviour that are not peaceful, such as extremely loud noise meant to cause harm.

INJUNCTION ORDERS

152. The within action was commenced on February 4, 2022, by the Plaintiff Li. On that same date, she applied to the Ontario Superior Court of Justice for an interim injunction to enjoin and restrain the use of air horns or train horns in the vicinity of downtown Ottawa. The Defendants Barber, Lich, Dichter and Bulford opposed the motion, and proposed that the Trucker Class Defendants could agree to a revised schedule of coordinated honking.

153. On February 7, 2022, the Honourable Mr Justice Maclean granted the interim injunction, enjoining and restraining anyone with notice of the court order from the use of air horns or train horns in the vicinity of downtown Ottawa, for a period of 10 days. The interim injunction order included a term directing the Defendants Barber, Lich and Dichter to communicate the terms of the order through their social media and other channels to all persons who had been participating in the Freedom Convoy protest in Ottawa.

154. The Defendants Barber, Lich and Dichter did not communicate the terms of the interim injunction through any of their social media channels, despite being very active on Facebook, Twitter, and TikTok. The Defendants Barber, Lich and Dichter purposely failed to comply with Justice Maclean's order of February 7, 2022.

155. The Defendant Barber mentioned the injunction in a TikTok video that he posted on February 9, 2022. In the video, the Defendant Barber says there is "an order in place to keep the horns down", but he then advises truckers that if they see police they should lock door and "grab that horn switch and don't let go." He also said, "Let that fucking horn go no matter what time it is and let it roll as long as possible."

156. The Defendant King was aware of the injunction order. On February 7, 2022, shortly after Justice Maclean orally issued the order, the Defendant King broadcast on Facebook Live expressing that truckers should stop blowing their horns because of the court order. He insisted that truckers maintain "silence on the horns" for the duration of the order, and then said while laughing, "Remember, these people haven't been able to sleep for ten days."

157. On February 8, 2022, the Defendant King broadcast again on Facebook Live informing his supporters that they shouldn't respect the court ordered injunction on honking after all. "Blow those horns," he counselled his trucker supporters in Ottawa. "Let them fire as loud as you can," he added.

158. On February 16, 2022, the Honourable Justice Maclean affirmed the honking injunction in an interlocutory order for a further 60 days, with the same terms. The Defendants Barber, Lich and Dichter again opposed the granting of this order.

159. The interlocutory injunction order of February 16, 2022, again included a term directing the Defendants Barber, Lich and Dichter to communicate the terms of the order through their social media and other channels to all persons who have been participating in the Freedom Convoy protest in Ottawa.

160. Again, the Defendants Barber, Lich and Dichter failed to comply with Justice Maclean's order of February 16, 2022, and made no effort to communicate the terms of the order through their social media channels.

161. The Trucker Class Defendants significantly reduced their use of air horns and train horns in downtown Ottawa after February 7, 2022. However, many Trucker Class Defendants regularly violated the horn injunctions by blasting their horns, usually in conjunction with others. These individuals did so in contempt of Justice Maclean's orders.

162. The City of Ottawa obtained its own injunction order from Associate Chief Justice McWatt of the Ontario Superior Court of Justice on February 14, 2022, pursuant to section 440 of the *Municipal Act*. The City's injunction order included terms enjoining and restraining anyone with notice of the order from honking horns, idling vehicles or blocking streets. Many of the Trucker Class Defendants did not comply with the City's injunction order and were in contempt.

DECLARATIONS OF EMERGENCY AND END OF OCCUPATION

163. Given the ongoing harm to residents, businesses and employees in downtown Ottawa caused by the unlawful behaviour of the Trucker Class Defendants, the Mayor of Ottawa issued a formal state of emergency on February 6, 2022, citing the "serious

danger and threat to the safety and security of residents posed by ongoing demonstrations” .

164. Given the ongoing harm to residents, businesses and employees in downtown Ottawa caused by the unlawful behaviour of the Trucker Class Defendants, the Premier of Ontario issued a declaration of emergency on February 10, 2022, under the *Emergency Management and Civil Protection Act*, stating that the interference with streets and roads “constitutes a danger of major proportions that could result in serious harm to persons and substantial damage to property” .

165. On February 10, 2022, the Ontario Ministry of the Attorney General obtained a restraint order from the Ontario Superior Court of Justice under the *Criminal Code* targeting the Freedom Convoy and Adopt-A-Trucker GiveSendGo fundraising campaigns. Ontario argued that the funds were being used to facilitate criminal mischief.

166. The emergency declarations by the Mayor of Ottawa and the Premier of Ontario did not curtail the tortious behaviour of the Trucker Class Defendants and Organizer Defendants, nor did they deter Donor Class Defendants from continuing to make donations to support the ongoing Freedom Convoy protests in Ottawa.

167. Given the ongoing harm to the residents, business and workers of Ottawa, the Prime Minister of Canada declared the Freedom Convoy protest a “public order emergency” under the *Emergencies Act* on February 14, 2022. The Order in Council identified the “continuing blockades by both persons and motor vehicles” and the increase risk of unrest and violence that would threaten the safety and security of Canadians. The Prime Minister referred to the protest as an “illegal occupation” and called for the participants to leave the City of Ottawa and go home.

168. On February 15, 2022, the Government of Canada issued the *Emergency Measures Regulations*, SOR/2022-21, rendering it an offence to participate in a public assembly that is reasonably expected to lead to a serious disruption of the movement

of persons or goods. The Regulations also made it an offence to directly or indirectly collect, use or provide any funds or other property to facilitate the participation in a prohibited assembly.

169. The vast majority of Trucker Class Defendants did not depart Ottawa following the issuance of the Emergency Measures Regulations. The Defendants Barber, Lich, Dichter, King and others strongly encouraged Trucker Class Defendants to defy the Emergency Measures Regulations and to stay in Ottawa. Many of the Organizer Defendants also continued to coordinate the provision and delivery of fuel and other supplies to Trucker Class Defendants in order to facilitate their continued participation in the prohibited assembly in downtown Ottawa.

170. On February 17 and 18, 2022, the Defendants Lich, Barber and King were all arrested by police and charged with *Criminal Code* offences, including mischief, counselling mischief, intimidation and counselling disobeying a court order.

171. As the Defendant Lich was being arrested by Ottawa Police on February 17, 2022, she yelled, "Hold the line", knowing that she was being video recorded and her words would be conveyed to Trucker Class Defendants still occupying downtown Ottawa. That video was broadcast on social media and served to encourage Trucker Class Defendants to remain on Ottawa streets.

172. On February 19 and 20, 2022, a coordinated police operation involving over 1,000 police officers from across Canada moved through the Occupation Zone and dispersed the remaining Trucker Class Defendants and other protesters.

173. Over 4,000 by-law tickets and provincial offences were issued to Freedom Convoy participants during the Freedom Convoy occupation.

IMPACT ON RESIDENT CLASS

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

175. For individuals who live in residences beside the streets where the horns are blasting, the sound within the home is approximately 80 to 85 decibels.

176. The normal sound in a home is 35 to 40 decibels. A normal conversation is 55 to 65 decibels. A lawn mower can be 88 to 94 decibels. Sleep is best at 30 decibels or below and there can be significant interference with sleep when sound level decibels exceed 45.

177. Each 10 decibel increase in sound level equates to a doubling of the sound in the listener's perception. An increase of 20 decibels is a fourfold increase.

178. Hearing damage can occur at 90 decibel sound pressure level where the exposure is over 30 minutes. At 100 decibels, sound pressure can cause hearing damage in about 15 minutes. At 120 decibel sound pressure and above, hearing damage can occur in a matter of seconds.

179. Prolonged exposure to sound levels of 70 decibels and above can cause psychological distress and interfere with psychological integrity. Prolonged exposure to high sound levels has been used as a method of torture.

180. The truck horns caused moral and psychological harm to the Resident Class Members. The horns substantially interfered with the private use and enjoyment of their homes. With horns ending as late as 1am, and no earlier than 11pm, Resident Class Members experienced significant sleep disturbances. Some Resident Class Members experienced temporary and even permanent damage to their hearing, with some experiencing tinnitus long after the Freedom Convoy protest ended.

181. Resident Class Members leaving their homes for work, school, groceries, medical appointments or necessities experienced significantly elevated sound exposure on the street. Some Resident Class Members avoided going out as much as possible and felt they were prisoners in their own homes. Others were forced to leave their homes and find alternate accommodation outside the Occupation Zone. The Resident Class Members were living in daily torment caused by the incessant blasting of truck horns.

182. Resident Class Members were impeded from leaving their homes due to gridlock on their streets caused by the Convoy occupation vehicles. This caused Resident Class Members to miss or be late for work, school and appointments.

183. Resident Class Members also experienced significant difficulty from the diesel fumes of the congregated semi-trucks. There were approximately 300 to 500 semi-trucks in the Occupation Zone at any time, idling their engines and emitting diesel fumes that negatively impacted the health and well-being of the Resident Class Members.

IMPACT ON BUSINESS CLASS

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

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

186. Businesses located in the Occupation Zone that remained open during the Convoy occupation experienced a loss of revenue as a result of customers and clients avoiding the public nuisance of the Occupation Zone.

IMPACT ON EMPLOYEE CLASS

187. Individuals employed by businesses located or doing business in in the Occupation Zone suffered significant income losses due to the public nuisance created by the Defendants.

188. As a result of the blocked roads, loud and constant noise, and emission of diesel fumes, many businesses within the Occupation Zone were forced to close or impeded from carrying out normal business operations. While some businesses remained open, those businesses experienced fewer customers or clients.

189. Employee Class Members were unable to work as a result of the Defendants' conduct creating a public nuisance in the Occupation Zone. This resulted in cancelled shifts or reduced hours, causing income losses for Employee Class Members.

PERSONAL EXPERIENCE OF PLAINTIFF LI

190. The Plaintiff Li, a resident of the Centretown neighbourhood in the heart of downtown Ottawa, suffered mental distress, suffering and torment as a result of the persistent and loud honking from several large trucks positioned outside her residence from Friday, January 28, 2022, to Sunday February 20, 2022.

191. While some of the honking sounds were from regular sized motor vehicle horns, the loudest and most persistent honks came from large semi-trucks. Some of these trucks are equipped with air horns that emit loud honking noises typical of vehicles of their size. A number of the trucks were equipped with horns that are similar in tone and volume to train horns.

192. From within her condo unit, the Plaintiff Li could hear the sound of honking horns at regular and frequent intervals from morning to night, sometimes as late as 1:30 am. With the exception of short periods of reprieve late in the night, the Plaintiff felt as if the sound was nearly constant. The honking horns were frequently

accompanied by loud music, sounds of shouting and fireworks. The combination of these sounds made the Plaintiff feel as though she was living in a war zone.

193. The honking horns, in particular, interfered with the sense of peace, safety and serenity which the Plaintiff Li previously enjoyed in her home. During the brief periods when the sound of honking horns subsided, the Plaintiff was unable to enjoy the relative quiet because she became riddled with anxious anticipation for the moment it would start up again. The Plaintiff Li found this anxious anticipation almost as unbearable as the sounds of the horns themselves.

194. The Plaintiff Li was unable to enjoy a restful night's sleep during the Freedom Convoy's occupation of her neighbourhood. The only way the Plaintiff Li could fall asleep and temporarily escape the noise was by playing music on external speakers at 70-80% volume and then inserting noise-cancelling earphones or earplugs into her ears.

195. The Plaintiff Li was fearful to venture outside. During the Freedom Convoy occupation, she would not leave her residence without first inserting noise-cancelling headphones into her ears. Even with those devices in her ears, the Plaintiff could still hear the sounds of the honking horns very clearly. The sound was so loud that she could physically feel vibrations inside her ears.

196. When the Plaintiff Li ventured outside, she was often subjected to heckling by members of the Freedom Convoy, yelling at her to remove the mask she wore to protect herself and others from contracting COVID-19. When she ignored the heckles, members of the Convoy would respond by honking their truck horns to startle her. This would cause the Plaintiff Li to flinch, to which the hecklers would cheer loudly.

197. The Plaintiff Li contacted the Ottawa Police Service on at least 14 occasions to complain about the noise and the distress the honking was causing her. The police dispatch told her nothing could be done, or that there were officers on the ground who would address the issue. Until the final weekend of the Freedom Convoy occupation, the Plaintiff Li never witnessed any meaningful action by the Ottawa

Police to curtail the behaviour of the Freedom Convoy participants. The sense that police are impotent to enforce law and order contributed to the Plaintiff Li's fear and anxiety.

EXPERIENCE OF THE PLAINTIFF UNION: LOCAL 613

198. The representative Plaintiff, 7983794 Canada Inc., is a company incorporated pursuant to the *Canada Business Corporations Act*, RSC 1985, c C-44 operating under the name Union: Local 613 ("Union: Local 613").

199. Ivan Gedz is the majority owner of Union: Local 613, a restaurant located at 315 Somerset Street West in the City of Ottawa within the area of the city most affected by the Freedom Convoy.

200. The impacts of the global COVID-19 pandemic, and the public health measures implemented to address it, have been profound for many in the restaurant industry. From January 5, 2022, to January 31, 2022, Union Local 613 was closed to in-person diners in accordance with Provincial public health regulations.

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

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

203. While the Plaintiff Union: Local 613 opened to in-person diners on January 31, 2022, the impacts on the business were profound. The Plaintiff Union: Local 613's revenues decreased by between 25% and 50% of what would have been expected during that period, taking into account Provincial regulations limiting in-person dining to 50% capacity.

204. Since reopening, Plaintiff Union: Local 613 would receive reservations throughout the week and would become fully booked with weekend reservations. However, most if not all these reservations made in the course of the week would be cancelled as the Freedom Convoy occupation continued.

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

206. The two parking lots most proximate to the Plaintiff Union: Local 613 on the north and south sides of Somerset Street West between O'Connor Street and Bank Street were fully occupied all night by Freedom Convoy vehicles, making it difficult for diners to park their cars near the restaurant. Surrounding streets towards Parliament Hill were also completely blocked.

207. More generally, the presence of so many trucks in the Occupation Zone deterred prospective diners from surrounding communities from attending the area. The general atmosphere of chaos and lawlessness in the downtown core had people avoiding the area.

EXPERIENCE OF THE PLAINTIFF HAPPY GOAT COFFEE COMPANY

208. The representative Plaintiff Happy Goat Coffee Company Inc. is a company incorporated pursuant to the *Canada Business Corporations Act*, RSC 1985, c C-44. ("Happy Goat"). The Plaintiff Happy Goat is an Ottawa business that purchases direct

trade coffee, roasts the beans locally, and operates several café and coffee kiosk locations in and around Ottawa.

209. The Plaintiff Happy Goat operates a café at 229 Rideau Street, which is located in the Occupation Zone. Six workers are employed at that location. On Friday, January 28, 2022, large commercial trucks with the Freedom Convoy began converging on Ottawa. One of the main routes the trucks followed to enter downtown Ottawa was along Rideau Street, passing directly in front of this Happy Goat location. The trucks were loud and regularly blasted their air horns. By the evening, the trucks had blockaded Rideau Street.

210. Given the regularly blasting horns, the blockaded street, and the diesel fumes, the Happy Goat owners decided to close the Rideau Street café out of concern for the safety of employees. Unfortunately, Happy Goat was forced to lay off the employees for the duration of the protest.

211. Prior to closing the Rideau Street location, the Plaintiff Happy Goat expected \$600 to \$700 revenue per day, or approximately \$300 profit. Rideau Street has remained blocked by trucks throughout the Freedom Convoy occupation and the café at this location did not re-open until February 22, 2022.

212. The Plaintiff Happy Goat also operates a coffee kiosk at the Rideau Station on the O-Train Confederation Line under the Rideau Centre mall. This is within the Occupation Zone, and four workers are employed at this location. The Rideau Centre is at the corner of Rideau Street and Sussex Drive, which is close to some of the main Freedom Convoy activities. There were trucks and other blockages in the road, loud honking, and diesel fumes emitting from the trucks that remained idling all day and night.

213. On Saturday, January 29, 2021, the Rideau Centre decided to close the mall because of safety concerns associated with the Freedom Convoy encampment outside its doors. The Happy Goat kiosk also closed that same day.

214. Prior to closing the Rideau Station coffee kiosk, the Plaintiff Happy Goat expected \$400 to \$600 in revenue per day, or approximately \$250 in profit. Rideau Street remained blocked by trucks throughout the Freedom Convoy occupation and the kiosk at this location did not re-open until February 22, 2022.

215. On Saturday, January 29, 2021, the National Gallery of Canada decided to close the gallery because of concerns associated with the Freedom Convoy vehicles in the vicinity. The Happy Goat café in the Gallery closed the same day.

216. Prior to closing the National Gallery café, the Plaintiff Happy Goat expected \$1,200 in revenue per day, and approximately \$400 in profit. Streets close to the National Gallery remained blocked by trucks throughout the Freedom Convoy occupation and the café at this location did not re-open until February 22, 2022.

PERSONAL EXPERIENCE OF GEOFFREY DEVANEY

217. The Plaintiff Devaney is employed full-time as a server at a restaurant located in the Byward Market. He has been employed at the same restaurant in various capacities for over five years.

218. The Plaintiff Devaney is compensated on the basis of an hourly wage plus tips. On a typical shift, tips account for approximately one half of his income.

219. Following a period of closure to in-person dining due to Provincial regulations, the restaurant re-opened on January 31, 2022. However, it quickly became apparent to the Plaintiff Devaney and the restaurant's management, that the enthusiastic return of in-person diners they had seen following previous periods of lockdown, was not materializing due to the presence of the Freedom Convoy in downtown Ottawa.

220. So few people were attending the restaurant that management made the decision to significantly reduce employees' scheduled shifts. There were not enough diners attending the restaurant to justify a full staffing complement.

221. The Plaintiff Devaney's shifts were cut by one half to two thirds. When he did work, he earned his regular wages but his income derived from tips was considerably reduced due to how few diners were attending the restaurant.

222. For example, on the Saturday before Valentine's Day, typically a busy day in the restaurant industry, the Plaintiff Devaney would typically serve 20-30 patrons in the course of his shift. On Saturday February 12, 2022, he served only two diners.

223. While at work, the Plaintiff Devaney and his co-workers had to endure the sounds of the Freedom Convoy horns which could be heard from within the restaurant. This created an unwelcoming environment for customers, many of whom cancelled their reservations. In the 48 hours which preceded Valentine's Day, 40 customers cancelled their reservations for that ordinarily busy evening. This is the most significant mass cancellation the Plaintiff Devaney has seen in his time working at the restaurant.

PRIVATE NUISANCE

224. The incessant blaring of the high decibel air horns and train horns substantially interfered with the private use and enjoyment of the Resident Class Members' homes and caused serious physical and psychological harm. The conduct was totally unreasonable and unjustified.

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

226. The activities described above, alone and in combination, constitute a private nuisance perpetrated on the Resident Class Members. The Organizer Defendants planned, encouraged, facilitated, supported, promoted and directed these activities amounting to private nuisance to be performed by the Trucker Class Defendants and other participants in the Freedom Convoy occupation. The Organizer Defendants' assistance and support for the tortious behaviour was substantial, including the planning of the tactics, providing the logistics and coordination, and raising and distributing funds for the express purpose of the continuation of the occupation of Ottawa and the related tortious behaviour.

227. The Donor Class Defendants encouraged and supported the tortious activities by donating funds, which not only directly paid for supplies and materials, but incentivized the Trucker Class Defendants to remain in Ottawa and continue their activities for as long as possible. By doing so, the Donor Class Defendants participated in and materially contributed to the nuisance and related tortious behaviour.

228. The Organizer Defendants, Trucker Class Defendants and Donor Class Defendants carried out the tortious private nuisance activities in concert with the common intention of causing discomfort, distress and harm to the Resident Class Members in order to pressure, compel and coerce the Government of Canada and other levels of government to meet their demands of withdrawing all COVID-19 public health measures and restrictions. The Defendants are all jointly and severally liable for the damages caused by the private nuisance carried out by any of them in furtherance of a common design.

PUBLIC NUISANCE

229. From January 28, 2022, to February 20, 2022, the Freedom Convoy occupiers, including the Trucker Class Defendants, engaged in activities in the Occupation Zone that constituted a serious attack on the public's right to live their lives unaffected by substantial interference with their own daily activities and access to public streets.

The activities described below unreasonably interfered with the public's interest in health, safety, comfort and convenience, and amount to a public nuisance.

230. The Trucker Class Defendants and other Freedom Convoy participants blocked several downtown Ottawa public streets indefinitely with large trucks and other vehicles, rendering the streets impassable. The blockade substantially interfered with people going to work, school, or appointments, and made it difficult for emergency vehicles to attend those in need. The serious, sustained and prolonged manner of the blockade of public streets is unreasonable and is not an activity protected by the *Canadian Charter of Rights and Freedoms*.

231. The incessant blaring of the high decibel air horns and train horns in downtown Ottawa unreasonably interfered with the health, safety, and comfort of all plaintiff Class members and the public at large.

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

233. The activities described above, alone and in combination, constitute a public nuisance perpetrated on the Resident Class Members, the Business Class Members and the Employee Class Members. The Organizer Defendants planned, encouraged, facilitated, supported, promoted and directed these activities amounting to public nuisance to be performed by the Trucker Defendants and other participants in the Freedom Convoy occupation. The Organizer Defendants' assistance and support for the tortious behaviour was substantial, including the planning of the tactics, providing the logistics and coordination, and raising and distributing funds for the express purpose of the continuation of the occupation of Ottawa and the related tortious behaviour.

234. The Donor Class Defendants encouraged and supported the tortious activities by donating funds, which not only directly paid for supplies and materials, but incentivized the Trucker Class Defendants to remain in Ottawa for as long as possible. By doing so, the Donor Class Defendants participated in and materially contributed to the nuisance.

235. The Organizer Defendants, the Trucker Defendants and the Donor Class Defendants carried out the tortious public nuisance activities in concert with the common intention of causing discomfort, distress and harm to the Class members in order to pressure, compel and coerce the Government of Canada and other levels of government to meet their demands of withdrawing all COVID-19 public health measures and restrictions. The Defendants are all jointly and severally liable for the damages caused by the public nuisance carried out by any of them in furtherance of a common design.

DAMAGES SUFFERED BY RESIDENT CLASS MEMBERS

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

- (a) emotional and mental distress;
- (b) difficulty concentrating;
- (c) interference with quiet enjoyment of home;
- (d) interference with rights of access to public streets and sidewalks;
- (e) headaches;
- (f) tinnitus, hearing damage and hearing loss;
- (g) breathing and respiratory issues; and
- (h) difficulty sleeping.

237. The estimated damages per Resident Class Member is \$400 per day of the continued use of the unlawful horn tactic and/or exposure to diesel fumes from the idling semi-tractor trucks. Some Resident Class Members required medical treatment

due to the tortious activities and suffered greater damages in an amount to be specified at a future date.

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

DAMAGES SUFFERED BY BUSINESS CLASS MEMBERS

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

DAMAGES SUFFERED BY EMPLOYEE CLASS MEMBERS

240. As a consequence of the public nuisance by the Defendants, many businesses in the Occupation Zone closed entirely or reduced their hours of operation and staff requirements. The Employee Class Members were laid off or experienced reduced hours of work. The Employee Class Members experienced damages in the form of loss of wages.

PUNITIVE DAMAGES

241. The Defendants deliberately planned and coordinated tactics to block all the streets and roadways around Parliament Hill and the surrounding neighbourhoods, and to make as much noise and air pollution as possible to cause discomfort and distress for all Class Members in order to coerce the governments to comply with their demands. The non-stop blaring horns and diesel fumes caused the Resident Class Members unbearable torment in the sanctity of their own homes and neighbourhoods.

The Defendants were at all times aware or ought to have been aware that these tactics could cause permanent physical damage and psychological harm. The Defendants acted with wanton disregard towards the residents, businesses and workers in the Occupation Zone.

242. This high-handed and callous conduct of the Defendants warrants the condemnation of this Honourable Court. Canada is a free and democratic society with a long tradition of peaceful protest and assemblies. The Defendants have abused those freedoms to cause serious harm to others, innocent bystanders to the Defendants' pursuit of their misguided political goals.

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

244. This statement of claim may be served outside of Ontario in accordance with Rules 17.02(g) and 17.04(1) of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, on the grounds that the torts were committed in Ontario.

Dated this 4th day of February, 2022.

Fresh as Amended Claim issued 18th day of February, 2022.

Further Fresh as Amended Claim issued 14th day of March, 2023.

Amended this 14th, day
of March 2023 pursuant
to Rule 26.02(c)

Decision of Justice MacLeod
dated March 13th, 2023

Ashley Moniz Andrade

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

ZEXI LI et al.

- and -

CHRIS BARBER et al.

Plaintiffs

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

FURTHER FRESH AS AMENDED STATEMENT OF CLAIM
(Claim originally issued on February 4, 2022,
as amended February 18, 2022 and
March 14, 2023)

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Solicitors for the Plaintiff

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

CITATION: Li v. Barber et al. 2022, ONSC 1037

SUPERIOR COURT OF JUSTICE

B E T W E E N:

ZEXI LI

Plaintiff

-and-

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING and
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 and JOHN DOE 60

Defendants

P R O C E E D I N G S

REMOTELY BEFORE THE HONOURABLE JUSTICE H. MCLEAN
on February 7, 2022, for an OTTAWA proceeding

APPEARANCES:

IDENTIFIED AS ANNOTATED - PARTICIPATED VIA REMOTELY FROM UNKNOWN LOCATIONS

P. Champ, C. Johnson

Counsel for Zexi Li

K. Wilson

Counsel for Chris Barber

K. Wilson

Counsel for Benjamin Dichter

K. Wilson

Counsel for Tamara Lich

Table of Contents

SUPERIOR COURT OF JUSTICE

T A B L E O F C O N T E N T S

5

ENTERED ON PAGE

SUBMISSIONS BY MR. CHAMP	11
SUBMISSIONS BY MR. WILSON	34
REPLY SUBMISSIONS BY MR. CHAMP	52
REASONS FOR DECISION	60

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Legend
<i>[sic]</i> - Indicates preceding word has been reproduced verbatim and is not a transcription error.
(ph) - Indicates preceding word has been spelled Phonetically.

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Transcript Ordered:	February 16, 2022
Transcript Completed:	February 23, 2022
Approved by MCLEAN, J.:	February 14, 2022
Ordering Party Notified:	February 23, 2022

MONDAY, FEBRUARY 7, 2022

CITATION: Li v. Barber et al. 2022, ONSC 1037

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PLEASE NOTE: PROCEEDINGS WERE RECORDED REMOTELY. PORTIONS OF THIS TRANSCRIPT CONTAIN A HIGHER THAN USUAL NUMBER OF [INDISCERNIBLE] NOTATIONS DUE TO TECHNICAL FAILURE AND POOR QUALITY OF THE AUDIO, AND SOME WORDS MAY NOT HAVE BEEN CAPTURED ON AUDIO DUE TO INTERMITTENT FADING AND/OR MUFFLING OF MICROPHONE.

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SOME PARTIES ARE PRESENT IN COURT WHILE OTHERS ARE PARTICIPATING IN THIS HEARING REMOTELY FROM DIFFERENT LOCATIONS. AT TIMES AUDIO RECORDING DOES NOT MEET REQUIRED STANDARD AS DULY NOTED HEREIN.

... WHEREUPON MATTER COMMENCES (1:08 p.m.)

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CLERK REGISTRAR: Oye, oye, oye, anyone having business before the Queen's justice Superior Court of Justice attend now and you shall be heard. Long live the Queen.

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THE COURT: Thank you. Before we can commence, I'd just like to say a few things first, which really doesn't have much of a bearing on this. I'd like to thank the staff that were here with me on Saturday. Of course, it's always a nice thing when you get called into work when you don't expect to, and we really appreciate your help because you were really helpful.

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I'd also like to thank counsel in the criminal matter that I'm engaged in, Ms. Tansey for the Crown, Mr. Lewandowski and Mr. Krongold, for arranging it so I could continue to hear this matter. They're very - they've been very helpful in that regard.

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The other matter I'd like to address is, as I guess you're aware better than I am, because I really - I only heard about it - really heard about it after the - the hearing on Saturday at close, that a racial slur was put in the chat line.

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Now, obviously, if that were done in open court I would either have the participant who did that removed, or arrested, or both, depending on what the nature of it is. With regard to this particular matter, I - and then I would deal with the individual matter in contempt or otherwise after the hearing had been completed because obviously, those kinds of outbursts are generally designed to prevent the court from adjudicating on certain matters that are before it, or at least slowing down that adjudication.

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So, what I'm suggesting at this point is, because counsel have read the epithet that was in the ZOOM, I would ask that both counsel communicate that to the Crown Attorney's office so that perhaps criminal proceedings or contempt

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proceedings can be brought if that individual can be identified. Please do that. That's - as I say, I can't deal with it personally because it's not a situation where I can deal with it. But I have to deal with it because that's what is necessary to make sure the procee - the proceedings of the court are not interfered with. All right. Thank you.

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MR. WILSON: Your Honour, I - I need to clarify. I have not seen it.

THE COURT: Well, you can - okay, sorry. I didn't want to interrupt.

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MR. WILSON: If I might, sir. And I've confirmed all of this in writing with my friend. That, I was instructed by my clients for Saturday to share the link only with my legal term and that's what occurred.

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THE COURT: I'm not - I'm not - what I'm - I'm not trying to put counsel in any difficulty. I'm simply put - and the - the limit of my request is simply to inform the Crown Attorney's office as to what you're aware of, and then they can take over from there. I'm not asking you to be a witness to it or anything else. It's just, I don't know how to deal with this because we're not in open court. And as I said before, if it were in open court, I would deal with it personally without any problems, but I can't do that because just - and I have no ability to investigate it myself. And so, therefore, what I'm simply asking - you can talk to your friend, Mr. Wilson, and - to Mr. Champ, you can talk together how you handle this. I just

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want - it should be reported to the Crown Attorney's office so they can take appropriate measures that they deem. Whether by means of a contempt application or by means of a criminal proceeding. The difficulty is, of course, whether the person can be identified, and I have no way of knowing that, perhaps neither do you. So, that's why my suggestion is that we allow them to do their investigation if they deem that appropriate.

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We'll proceed on with this.

MR. WILSON: Thank you.

THE COURT: All right. Thank you.

MR. CHAMP: Thank you very much, Your Honour.

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THE COURT: All right. So....

CLERK REGISTRAR: *[Indiscernible...speaker away from microphone]* the chat ability has been disabled.

THE COURT: Yes, I understand that.

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CLERK REGISTRAR: Okay.

THE COURT: And I'm very pleased with that too.

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Anyway, let's go on now. I don't know - I've got a great deal of materials. I guess the - I now have a factum from you both - or facta from you both. I have motion records from you both and the various affidavits that are appended there to, or part of it. I don't know if we have to go into any other detail with respect to what the record is that I'm - have to deal with.

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MR. CHAMP: If I may, Your Honour, I - and I appreciate the Court and the court registry

working so hard on this matter over the last few days, and materials coming in at all times. Very - very appreciate and - of the court's efforts on that.

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I thought, if I may, I could just sort of summarize what I understand the record to be before, given the various....

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THE COURT: Well, you can both do that. You could both do that and highlight it. And then I'll - if I'm having a problem recognizing it, I'll go and look for it, I guess. Or you can help me with it. All right.

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MR. CHAMP: Well, may - maybe I'll summarize to - it to you, Your Honour, at least my understanding and my friend then can advise if - if he has the same understanding.

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From the moving party's perspective, the plaintiff, there's a moving party's motion record that was filed on Friday evening.

THE COURT: Yes.

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MR. CHAMP: And then there's a supplementary motion record, which we filed last night.

We've asked the....

THE COURT: That's right. I have that too.

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MR. CHAMP: Yeah, yeah. There was a supplementary book of authorities that we filed on Saturday, but you no longer need to use that. We've incorporated all of those authorities into the supplementary motion record.

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THE COURT: That's fine. Thank you.

MR. CHAMP: And just to confirm with the Court, and that supplementary motion record, it's predominantly just authorities. We added some authorities to address some of the questions that the Court had on - on...

THE COURT: Right.

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MR. CHAMP: ...Saturday, Your Honour. And beyond that, we just - we have a version of a draft order, which we had gotten input from - from the Ottawa Police. And then, we also just put in, as I believe the Court may be aware, but just to confirm, that the City of Ottawa major declared a state of emergency under the - under the *Emergencies Management And Civil Protections Act* yesterday. So, just thought the court...

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THE COURT: Yeah.

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MR. CHAMP: ...should be aware of that. But aside from that, our evidence is what we had filed on Friday evening.

THE COURT: Okay, that's fine.

MR. CHAMP: Our motion - and our factum is included in - in Volume 1.

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THE COURT: That's right. No, I've - I've - I've separate that out and I - I appreciate how hard the administrative staff have been working because I've had to do some of it myself. So, I - I'm grateful for what they've done.

MR. CHAMP: Yeah.

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THE COURT: Mr. Wilson....

MR. CHAMP: For sure.

THE COURT: Yes.

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MR. CHAMP: And from Mr. Wilson's side, I understand that the - the record is, they've filed a motion record last night, which included five affidavits. And they've filed now a supplementary motion record about an hour and a half ago with eight affidavits. And then they've filed a factum, the latest version of - they filed a few, but I think the latest version was at 11:50 a.m.

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So, that's - today. So, that's - that's my understanding of their record. Two motion records for each party, plus they have a separate factum. We have our factum incorporated in our first volume.

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THE COURT: All right. Mr. Wilson?

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MR. WILSON: I thank my friend for that summary. I can advise the court and my friend, if they haven't received it already, we do have one further affidavit that's on its way, or already into the court, and it's from Thomas Merezano (ph).

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THE COURT: I don't know that I - is it a stand-alone affidavit?

MR. WILSON: That's correct, sir.

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THE COURT: Well, all right. Well let me look and see.

MR. CHAMP: Well, Your Honour, I haven't had a chance - and I'll just say at this stage, this hearing has - has commenced and I would oppose the introduction of that affidavit.

All of the moving party's evidence was served on

the respondents on Friday. We're now....

5 THE COURT: Well, let's - let's - let's go ahead with it and then we'll see where we go because I don't have it, as - as I understand it. All right. So, let's proceed and we can deal with that....

MR. WILSON: One other - one other - sorry, sir, I'm not meaning to talk over.

10 THE COURT: Okay. No, no, no. You go ahead.

MR. WILSON: There is - there was an e-mail that I received, a few minutes before the hearing started, from counsel for the Ottawa Police. I haven't had a chance to review it or read it, obviously. So, I'm not sure if that's part of the record or what the role of the Ottawa Police are in this private litigation matter. But I - I just want....

15 THE COURT: Well, do you want - do you want a few minutes to read it? I don't know - you know, I'm....

MR. WILSON: Yes, please.

20 THE COURT: All right. We'll give you a few minutes. We'll just wait. We'll give you five minutes and then. Mr. Champ?

25 MR. CHAMP: Yeah, before he goes, if I may, Your Honour, thank you. I would just address the - the issues is that the - the Ottawa Police Service legal counsel has asked for standing simply to speak to the issues of any terms of the order that would apply to the Ottawa Police Service.

30 When we were preparing the draft order for Your

Honour early on Saturday morning, the Ottawa Police Service had reached out and had some input in what they thought would be helpful...

THE COURT: So....

MR. CHAMP: ...for them to enforce. We added that language. And they've now indicated they would like standing simply to speak to that language...

THE COURT: Well....

MR. CHAMP: ...as it applies to the Ottawa Police.

THE COURT: All right.

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: We'll - we'll hear from you, Mr.

Wilson, on that. But I - I would think if they want standing for that limited portion of the debate, then why don't we wait until we see if we get to that portion of the debate.

In other words, if there is an order to be given then we can talk about getting the police in, but I don't think - if they're not gonna talk about the substantive - substantive nature of the order, I don't know that they need standing. Is that your position, Mr. Champ?

MR. CHAMP: I guess it's just at whatever stage you make that determination, Your Honour. But that's - that's fine....

THE COURT: No, no, no, but....

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Yeah, well, I'm just saying, if for example, I don't make an order, then I don't know

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that the Ottawa Police are of any moment. If I do make an order then if they want to discuss whatever, then we could consider the matter of standing. I think that's - because other - you know, it's a two stage process. The first process is whether I issue injunctive relief, and then - and then if we get there, and - and true enough, you know, true enough, the nature of the injunctive relief will govern the order. But if it's just the technicalities of enforcing the order and the terms of the order that the police wish to speak about, then they would have - I think would have a - be on firming ground to be given that opportunity.

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I don't know what your position is, Mr. Wilson, on that?

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MR. WILSON: I think that's a very efficient use of everyone's time, sir, and I think that's fair and reasonable. Thank you.

THE COURT: All right. All right, we'll give you five minutes, Mr. Wilson, to read their - their....

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MR. WILSON: Perhaps, sir, would it make sense to proceed with the first part of the hearing and then....

THE COURT: Okay. All right.

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MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

THE COURT: No, I'm - I - I - I have no - you

Submissions by Mr. Champ

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know, I just want to be fair to everybody and I -
you know, I - it's very hard for me to tell you
what to do with documents I haven't seen. So, you
- yes, we'll go ahead with the hearing, then we'll
get - you'll get your - depending on how we deal
with the first part of the hearing, then we will -
you'll have your time to read the police thing and
we'll go on from there. If that's - if we do
that. All right.

Mr. Champ?

MR. CHAMP: Thank you, Your Honour.

SUBMISSIONS BY MR. CHAMP:

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So, our submissions today, Your Honour, is with
respect to a motion for an injunction pursuant to
Section 101 of the *Court's of Justice Act*, and
Rule 39.01(4) of the rules of civil - pardon me,
40.01(4) of the *Rules of Civil Procedure*.

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The nature of the order sought, Your Honour, is an
injunction enjoining not only the defendants, but
any unnamed person who has notice of the order,
from blasting air horns or rail horns in the
community of Ottawa for 60 days, unless it is for
legitimate emergency purpose.

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THE COURT: Right, but - okay, that - the point
is, we've got a whole plethora of people who
aren't served, right?

MR. CHAMP: Yes, Your Honour, but if I may....

THE COURT: So....

MR. CHAMP: If - I - I'll address those issues in

Submissions by Mr. Champ

my - in my submissions, if - if I may.

THE COURT: Right, but I'm - I'm just saying that, on that, and this is what I want some clarity, doesn't it have to come back to it in 10 days?

MR. CHAMP: It's within 10 days under sub - sorry, under - sorry under submission - 40.02(1), if it's *ex parte*, but Mr. Wilson is now participating....

THE COURT: Well, yes, but it's *ex parte* - it's sort of *ex parte*, isn't it? Yeah, it's sort of *ex parte*...

MR. CHAMP: I guess....

THE COURT: ...so, I don't see how I can give you your 60 days because a lot of these people aren't served. I have - and you want - you know, and let's be blunt about it. You want a globular injunction that enjoins everybody in a particular area from doing certain things, right?

MR. CHAMP: This is so.

THE COURT: Yeah. Well, I can't - I don't think I can give it to you for 60 days when they have no notice of it, et cetera, et cetera, et cetera. So, it's an *ex parte* injunction for the main part, right?

MR. CHAMP: Well, I - I'm not sure if I'd agreed with that position, Your Honour. If I may, I'd proceed with my arguments and I could address that point to you in fulsome.

THE COURT: You go ahead. Okay. Go ahead.

MR. CHAMP: Thank you very much, Your Honour.

THE COURT: I'm not trying to - I'm just trying to - I'm trying to see where we're at, that's all. Okay. Go ahead.

Submissions by Mr. Champ

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MR. CHAMP: I appreciate it. I appreciate it very much, Your Honour. I appreciate hearing the Court's concerns. That assists me in....

THE COURT: Yeah, well you go ahead. Go ahead.

MR. CHAMP: It assists me in sort of shaping our arguments and points.

THE COURT: Go ahead.

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MR. CHAMP: So, Your Honour, we have this motion before you for an injunction, we'll leave it at that, prohibiting the air horns and rail horns around Ottawa, applying to some people for some time. And we'll - we'll talk about those issues later in the motion.

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I'll proceed by reviewing the evidence of the parties that you have before you and then I'll turn to the law, the test, the well-known test of an injunction, *RJR MacDonald*, and I'll go through the three branches of that test:...

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THE COURT: All right.

MR. CHAMP: ...serious issue to be tried, irreparable harm, and balance of convenience...

THE COURT: Right.

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MR. CHAMP: ...and then make a request of the nature and order that should issue.

THE COURT: All right.

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MR. CHAMP: On the basis of the evidence, Your Honour, the evidence you have from the moving party is three affidavits: from the plaintiff, Ms. Li, from a member - another resident of Ottawa, Mr. Barr (ph), and from a doctor, Dr. Scherer an otolaryngologist or ENT specialist, who's a

Submissions by Mr. Champ

specialist in hearing damage.

5 The affidavit of Ms. Li sets out that - in
paragraph 5 of her affidavit, which is - you'll
find that material at Tab 3 of our motion record:
loud horns on trucks being deafening in her
neighbourhood. At paragraph 6, she sets out how
frequent it is, which is basically all day and all
night, including the latest that she can recall,
10 1:30 a.m. At paragraph 7, Your Honour....

THE COURT: Go ahead.

MR. CHAMP: That's fine. Paragraph 7 of her
15 affidavit, Your Honour, sets out that she has
measured the level of sound in her apartment. So,
this isn't on the street, this is in her apartment
with the windows closed, at 84 decibels.

20 She talks at paragraph 8 about how this has been
impacting her. The 84 decibels almost non-stop,
at that point, for over a week, her nerves are
frayed, she can't sleep, she's suffering anxiety,
and even when the sound stops she's seized with
anxiety because she's unsure of when it will start
again.

25 At paragraphs 10 and 11 of her affidavit, she
talks about what it's like when she goes outside,
right outside her door, that the sound is so loud,
even when she wears sound cancelling earphones,
30 it's physically vibrating in her head.

At paragraph 12, she speaks to how she's made

Submissions by Mr. Champ

complaints to the Ottawa Police Service 14 times and they've indicated they can't assist her.

5 The next affidavit, at Tab 4 of our materials, is the Barr (ph) affidavit. This is an individual citizen from Ottawa who walked around using an app on his phone from the CDC for Occupational Health and Safety, to measure the decibel levels.

10 At paragraph 5, and 6, and 8, of his affidavit, he indicates that he has measured and has recordings of those measures of sound levels, constant sound levels, of 100 decibels at the corners of Laurier and Kent, 105 decibels at Parliament Hill and at Bank and Slater. And he testifies in those aff -
15 in those paragraphs, Your Honour, that he could only tolerate that sound, that level of sound, for a few minutes.

20 At paragraph 7, he speaks to at one point going by a truck, which then uses the rail horn - or pardon me, the train horn. The sound level spiked, which he measured at over 121 decibels. He described the sound as very painful.

25 Paragraph 9, he indicates that he can hear the blaring of those horns even when he was several blocks away.

30 The third affidavit, from the moving party, is from Dr. Scherer, as I'd indicated, an ENT, ears - ear, nose and throat specialist and

Submissions by Mr. Champ

otolaryngologist, who treats patients for hearing loss and hearing damage.

5 At paragraph 2, she points out that she's a doctor at the Ottawa Hospital, the Montfort Hospital, and CHEO, and she's an assistant professor with the Facility of Medicine at the University of Ottawa.

10 Paragraph 4, she advises that the sound of a lawnmower is between 88 to 94 decibels. And if I could, Your Honour, I'd just indicate that that's very close to decibel level that Ms. Li indicates is in her apartment with the windows closed. So, essentially, Ms. Li has a lawnmower running in her living room none stop, all day and all night.

15 Paragraph 7 and 8, the doctor sets out that prolonged exposure can cause permanent damage to the ear and can cause psychological distress.

20 At paragraph 10, she indicates that residents living in downtown Ottawa, exposed to this level of noise, may face hearing loss and tinnitus.

25 And at paragraph 12, Your Honour, which is particularly important for the irreparable harm test, she says that tinnitus can be permanent for downtown residents due to exposure of these sound levels over several days.

30 Indeed, Your Honour, when we get to trial in this matter, it may be that some of these individuals

Submissions by Mr. Champ

in downtown Ottawa have already suffered serious, permanent harm.

5 The only other evidence, if I can call it that, we just - in our record that we put in yesterday, is just confirming that the mayor of Ottawa has declared a state of emergency.

10 With respect to the responding party's affidavits, there's 13 affidavits, Your Honour. I'll just have a couple of comments on them. Largely because, Your Honour, I believe, almost the entirety of the evidence is irrelevant. It's speaking to that their having a good time and that 15 the truckers are friendly and nice, and joyful and jubilant, and so on and so forth. But in terms of the evidence that speaks to the honking, the horns, which is the subject of this litigation and this motion, what we hear is in the Bullford (ph) affidavit, or Bufford (ph) affidavit, pardon me, 20 at Tab 3 of the respondent's motion record. At paragraph 7, he speaks of the freedom convoy leadership, in his words, agreeing on a schedule of the honking between 8:00 a.m. to 8:00 p.m. And that in his - it's his understanding that they're 25 respecting those parameters.

30 Now, that evidence, Your Honour, is important because it indicates that, as part of the claim, we're pleading, or alleging, that the leaders of this freedom convoy protest are directing and encouraging, and controlling to some extent, the

Submissions by Mr. Champ

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truckers who are using this horn tactic. There's some other evidence that is contradictory to that, so I'm unsure how my friend will address that in his arguments. I'm looking forward to hearing that. But that, Your Honour, I would suggest, meets the serious - met - fills - fits the serious issue to be tried test. That that would be relevant to the tort of nuisance and individuals working collective - collectively for a common design or purpose.

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Now, beyond that, Your Honour, we have, you know, Ms. Lich, and Mr. Dichter, and Mr. Barber, all saying they don't have trucks here and they're not honking horns. You know, to that extent then, Your Honour, I - I question why they're here opposing this motion. If they're not honking horns, why are they here opposing? And I would suggest, Your Honour, that's a relevant question or issue for costs.

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And the other affidavit, Your Honour, that I'd like to speak to is the Jean Dragne (ph) affidavit. It's in the respondent's supplementary motion record at Tab 2. It's the only one that speaks to the horns. All the other ones are just, "It's a nice place and there's lots of really great people in this protest", which is fine, people can have those opinions. But at paragraph 5 of the Jean Dragne (ph) affidavit, this affiant says that "the honking was loud and fairly consistent". So, he confirms that it's an ongoing

Submissions by Mr. Champ

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blaring horn, but he suggested he could still hear conversations with people and hear speakers on stage. Well, Your Honour, in terms of the evidence from the respondent about the level of sound, there's no one that has provided evidence about the decibel levels. We've provided evidence with them on Friday, if they wanted to put in evidence about, no, we're measuring the decibels this or that, they could have put it in but they didn't. I wonder why, Your Honour. We'll I would suggest, an inference can be drawn is 'cause they did check it out and they found that our readings are accurate.

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That goes to the fact that - and if they do have that evidence, I hope they hold onto it for when this trial of action is heard showing that they're aware of the harm that they're causing and inflicting on the people of Ottawa.

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With respect to the rest of the aff - the evidence, I've already indicated much of it is irrelevant, but there's one point I would like to highlight, Your Honour. There are many references in my friend's affidavits to what people told them. So, hearsay evidence. Now, we do know under the *Rules of Civil Procedure*, Rule 39.01(4), that hearsay evidence is admissible on motions but the affiant must state the information and belief of that source. In other words, they have to state who they are hearing that information from, at a bare minimum.

Submissions by Mr. Champ

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THE COURT: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: So, when you're reviewing those affidavits in detail, Your Honour, I would submit, you'll - you'll agree with me that much of that evidence is inadmissible. We have phrases like this, "Very reliable sources tell me", "The caller told me", "Two separate truck drivers told me", "Drivers confirmed to me", "I've spoken with many truck drivers". Your Honour, that kind of evidence is not only hearsay, but it's hearsay that does not meet the exception in Rule 39.01(4), and is inadmissible.

I appreciate that my friend is Alberta counsel. He does have rights to participate and appear here, and maybe it's not as - maybe the rules of civil procedure in Alberta are different. I'm not familiar with them myself. But if he's appearing in Ontario court, I'd suggest he should be aware of them.

So, that's the evidence you have before you, Your Honour. Direct evidence. Three affidavits from the plaintiff, all directly relevant, all direct evidence. Un - unchallenged.

Turning to the law, Your Honour, the test for an injunction is whether there is a serious issue to be tried in the underlying action, whether irreparable harm be caused to the moving party if an injunction is not issued, and the balance of

Submissions by Mr. Champ

convenience as between the parties.

5 On the serious issue to be tried test, we've
provided you with a full statement of claim that
has been issued as a class action, under the *Class
Proceedings Act* of Ontario. The claim is in the
nature of private nuisance. We've provided you
with a couple of cases on private nuisance. We've
10 provided you with the - the *Berdah v. Quebec* case
at Tab 8 of our supplementary motion record, but
is all - it's referenced in our factum, which we
served on Friday night. That was a class action
by residents of Montreal based on excessive sound
that they were all experiencing.

15 And I also submitted the Moto Park case in our
materials, which is - I apologize, I'm just gonna
give you the tab for that. I can't remember it
off the top of my head right now - Tab 7 of our
20 supplementary motion record. It's a - it's a
numbered company that starts it, but it's - I call
it the Motoplex Speedway case. That had to do
with residents of a community called Lawrence
Heights and the property owner beside them turned
25 his large farm into a racetrack where they were
holding races every weekend. And the sound levels
would reach between 80 and 90 decibels at the
homes of those plaintiffs. And they brought an
action for nuisance against the moto - the
30 Motoplex Raceway track, which was successful and
they all received damages for that harm.

Submissions by Mr. Champ

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We would submit, Your Honour, based on the evidence that you've seen from Ms. Li, Mr. Barr (ph), and Dr. Scherer, clearly, a serious issue to be tried has been made out. On a strong *prima facie* case or whatever standard one wants to apply.

With respect to irreparable harm, Your Honour, irreparable harm is ongoing. Every hour more is inflicting pain and suffering on the people of Ottawa. And according to the evidence of Dr. Scherer, many of these Ottawa residents may be suffering, or may suffer permanent hearing damage.

Now, Your Honour, we haven't lead any evidence from a psychiatrist or a psychologist yet, on the psychological impacts on that - of - on the residents, but you do have the evidence of Ms. Li, of the torment, and the sleeplessness, her frayed nerves, the anxiety that she's experiencing from these ongoing horns.

Then we get to the balance of convenience, Your Honour, and I would suggest, as with many cases, motions for an injunction, this is where it turns. What is the balance of convenience between the parties? Now, I know my friend - opposing counsel - opposing counsel for the respondents is going to say, "Look, there's - there's fundamental freedoms at issue here, Your Honour. *Charter Rights and Freedoms*. The right to protest, and assemble, and express opinions on political views."

Submissions by Mr. Champ

5 THE COURT: Well, does the *Charter* apply to this?
MR. CHAMP: Actually, Your Honour, I would submit
it does. My friend is correct. It does.
THE COURT: It involves - it involves two people.
It does not involve the government.
MR. CHAMP: When you issue a court order, if you
issue a court order, Your Honour, then the *Charter*
does apply. So, you do have to consider *Charter*
values and the *Charter* if you do issue a court
10 order. That's - that's pretty - it's - it -
that's fairly well settled law.

We've - we've provided you with some more
authorities, Your Honour.

15 THE COURT: No, that's fine.
MR. CHAMP: Yeah, we've provided you with some
more authorities to assist you a bit on this
issue, Your Honour. At Tab 16 of the
supplementary motion record that we provided you
20 yesterday, that's *MacMillan Bloedel Ltd v.*
Simpson....
THE COURT: No, no, I'm aware of that.
MR. CHAMP: Yeah.
THE COURT: It's just generally, in a litigation
25 between parties it doesn't apply.
MR. CHAMP: Well, Your Honour, as the Supreme
Court of Canada says in *MacMillan Bloedel* at
paragraph 13, that, you know, when you've got a -
a conflict between the right to express public
30 dissent on the one hand and the exercise of
property rights on the other, one has....
THE COURT: Well, the property - property rights

Submissions by Mr. Champ

aren't in the *Charter*.

MR. CHAMP: That's - that's very true, Your Honour. But the court says - the Supreme Court of Canada says that the right to express opinions is relevant when we're talking about the expression of opinions.

THE COURT: Oh, no, no. I'm not - that's not my point. That - the - the right to express opinions exists outside the *Charter* too. You know, it's not - it's not just the *Charter*. Freedom of speech existed before the *Charter* and existed in common law.

MR. CHAMP: Absolutely.

THE COURT: You know, so, you know, it's - we're going the same way, but I don't know whether - anyway....

MR. CHAMP: I - I - it's of no moment to me. I'm not trying to make my friend's arguments, Your Honour....

THE COURT: No, no, I'm not making - I'm just asking you a particular point because...

MR. CHAMP: Yeah.

THE COURT: ...generally speaking, that - you know, in some of the litigation I've been involved, it's been argued it didn't apply. But anyway, there is -...

MR. CHAMP: Well, I'll be....

THE COURT: ...whether it applies or not, okay, whether it applies or not, and whether we sense it as a *Charter* issue or a common law issue, there's still a right to free speech.

MR. CHAMP: Absolutely, without question.

Submissions by Mr. Champ

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THE COURT: Okay. So - so...

MR. CHAMP: Without question.

THE COURT: ...and they overlap. So, it...

MR. CHAMP: Without question.

THE COURT: ...you know....So, it's - it's not something I can say, "Well, there's no free speech because there's no *Charter*." That's not the case. It never was the case and it won't - it isn't now because the *Charter* does not - as I understand it, and maybe there's more - there's law that I've missed - the *Charter* does not foreclose common law right between parties.

You know, in other words, if you're arrested in Canadian Tire, you still have rights against false arrest, whether the *Charter* applies or not. You just can't do certain things. That's - that's what I'm saying. What I - what I'm saying is, yes, I have to consider it, but I have to consider it whether the *Charter* applies or not. That's - that was the only point of our - my interjection.

MR. CHAMP: And I - we - we're completely on the same - on the same wavelength on that, Your Honour.

THE COURT: You know, because you see, if the court order is issued, then there's court - *Charter Rights* involved, yes, I know that, but before I get that - get to that, I have to consider them. That's all. That was the only - and how I get - how I do that is, I don't think of any great moment what label I put on it.

MR. CHAMP: I - I - I agree with you on that, Your

Submissions by Mr. Champ

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Honour.

THE COURT: All right.

MR. CHAMP: And - and....

THE COURT: Sorry - sorry - I just - just was curious, that's all. All right.

MR. CHAMP: Well, I mean, my friend will point you to whatever paragraphs of the - the decisions that he feels is relevant on that.

THE COURT: Oh, no, no, no, I know that. I'm just trying to focus what I'm supposed to do...

MR. CHAMP: Indeed.

THE COURT: ...because - because, as - as my view is, that no matter what - which way we go at this, whether it's common law rights or *Charter Rights*, or something like that, we end up at the same spot.

MR. CHAMP: Absolutely.

THE COURT: Okay.

MR. CHAMP: Agreed. Agreed.

THE COURT: Thank you.

MR. CHAMP: But at - but the point is, through, Your Honour, ultimately, is, the plaintiff fully recognizes that - that it is an important issue. Expressive rights...

THE COURT: Oh, it's a - it's a....

MR. CHAMP: ...and free expression, and free speech. And we recognize this is absolutely a big part of this case.

THE COURT: It's a balancing of the right to expression vis-à-vis the right to - quiet enjoyment is not the right word because quiet enjoyment has a special - has a special meaning

Submissions by Mr. Champ

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that really doesn't comprehend this. It's a right to, I guess, peaceable co-existence, or - or....

MR. CHAMP: I'll take to some language for some of the cases that may assist you in - in draft....

THE COURT: Oh, no, no. I - well

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

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THE COURT: Yeah, but let's get to the - we'll get to that. Once we get there - I know you want to say, "Well, let's just draft it now", but I don't think we can.

MR. CHAMP: No, no, I'm talking about the cases. I'm talking about whatever ruling that you issue, Your Honour.

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THE COURT: No, no. I know that. I'm just saying....

MR. CHAMP: Whichever way. Whichever way it goes.

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THE COURT: yeah, I know. Okay.

MR. CHAMP: Whichever way it goes.

THE COURT: Thank you.

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MR. CHAMP: So, on - you know, and on that point we're just debating, Your Honour - or not debating - I'd say discussing, again, the Supreme Court of Canada says in *MacMillan Bloedel* at paragraph 13, that,

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In a society that prizes both the right to express dissent and the maintenance of private rights, a way to reconcile both interests must be found. One of the ways this can be done is through court orders like

Submissions by Mr. Champ

the one at issue in this case. [As Read]

THE COURT: Oh, no. I know that. Yeah.

MR. CHAMP: The other case we have is the *CNR v. Chief Plain*, on that point, on Tab 14, at paragraph 19 of that case.

At paragraph 19, the court says that,

The protestors...are exercising...Charter Rights...but...expressive rights are not absolute and are subject to reasonable limits. [As read]

So, Your Honour, what we're trying to say is, you know, the plaintiff, and actually, I think all downtown Ottawa residents understand the right to protest. They experience it all the time. Ottawa, you know, as the national capital, experiences mass demonstrations, small demonstrations, loud protests, quiet protests, small numbers, big numbers, sometimes occupying streets and street corners, and parks, and the Ottawa residents respect that. They understand the freedom of assembly, the freedom of association, and the freedom of expression. But the democratic rights of individuals to engage in those activities end when they unreasonably interfere with the rights of others, including causing harm. And that's what we're talking about here.

I'll just review some of the rest of this

Submissions by Mr. Champ

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jurisprudence by going further on those arguments first, Your Honour, but I wanted to address the point or concern that you had the other day, Your Honour, if I understood it properly, is, could you issue an arder - an order to people who aren't participating and how do you name them. And *MacMillan Bloedel* discusses that at paragraphs 26 to 31 of the judgment. So, you can - can review that...

THE COURT: Okay.

MR. CHAMP: ...Your Honour. And the court there - Supreme Court confirms that your court order can be effective even to people who are non-parties to this action. So, we've named 60 John Does, but let's say tomorrow the - the - the convoy leadership, as Mr. Bufford (ph) describes them, freedom convoy leadership, has all these truckers leave tomorrow and a whole new group of truckers come in and then they start blaring on their horns saying, "We're not covered by this injunction." Well, I mean, those kinds of facts are not unknown to the courts. And so, how the court deals with that, as the Supreme Court of Canada reviews, is they issue an order to the public at large that was binding on individuals who are even known parties. And it's binding on individuals who have notice of the order. So, that's the key. And we have - so, that's the key. Is that individuals who have notice of the order, even if they're non-parties, even if they're unnamed, persons known or unknown, if there's a court injunction issued to not blast air horns and rail horns in Ottawa

Submissions by Mr. Champ

unless you're an emergency vehicle, they're in contempt, and they're contemnors, if they're aware of the court order.

5 The court summarizes at paragraph 32, the Supreme Court in MacMillan Bloedel,

Canadian courts have for decades followed the practice of issuing orders directed at prohibiting interference with private property rights, which orders affect not only the named parties but also the general public. [As read]

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15 A couple other interesting cases we have before Your Honour, the *Hotel Georgia* case and the *Ottawa MacDonald Cartier Airport* cases, at Tabs 15 and 18, those case [sic] both involves injunctions against air horns. Air horns being used by protestors and strikers. The *Hotel Georgia* case - incidentally, Your Honour, *Hotel Georgia* case at 20 paragraph 5, is a 2019 judgment from the B.C. Supreme Court and - and Tab 15 of our materials. Paragraph 5, talks about the *Charter Right* of free expression and cites some of the Supreme Court of 25 Canada cases on that. Not that - again, I - I - I'm - I'm completely aligned with your view, Your Honour. I don't think it makes a difference whether we're talking about the common law right of free speech. As the Supreme Court of Canada, you know, confirmed in *Switzman v. Elbing* and 30 others, and from precedence in the '50s, or - or it's the *Charter*. It's - it's the same. But the

Submissions by Mr. Champ

court does have to recognize that balance. That's the issue in the balance of convenience.

THE COURT: Oh, of course it is.

MR. CHAMP: Right.

THE COURT: That's the...

MR. CHAMP: Yeah.

THE COURT: ...the - the issue is where one right stops and another right begins.

MR. CHAMP: Yeah.

THE COURT: And when there's an overlap, where the lines is drawn. That's really what we're talking about.

MR. CHAMP: That's right.

THE COURT: And that existed at common law before we even got the *Charter*.

MR. CHAMP: Indeed. Indeed, Your Honour. Fully agreed.

THE COURT: Okay.

MR. CHAMP: So, the interesting thing in *Hotel Georgia*, Your Honour, is that it's also based on the tort of nuisance because of the excessive sounds and air horns, and megaphones. That's at paragraph 6 and 7 of that judgment. The interesting there - on the evidence of that case, Your Honour, at paragraphs 9 and 10, the moving parties used phone apps to measure the decibel sound levels and that was admissible, and the court relied on that. And in paragraph 10, the sound levels were 85 decibels for much of the day. And that, the court found, was unreasonable and should be enjoined. Here, the sounds levels are much higher. Much, much higher.

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Submissions by Mr. Champ

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Paragraph 13, the court, again, in *Hotel Georgia*, then issues an injunction against any person with notice and enjoins them from using air horns, sirens, blow horns, and whistles.

The other authority on using car - air horns, Your Honour, *Ottawa MacDonald Cartier International Airport*, 2015 judgment of the Ontario Superior Court, it's at Tab 18 of our materials, that had to do with striking taxi drivers. You'll see at paragraph 2, the moving party was looking to enjoin the use of car horns, air horns, megaphones, sirens, or other devices of a similar nature. The court there, at paragraph 8, recognizes that the - the individuals who were using those things have the right to express their opinions and in fact, are using those loud device noises to attract attention. So, it's a form of expression. We don't take issue with that. But there are other ways to express opinions and draw attention to your views without causing harm on others.

The - I don't I - yeah, I don't think I need to go beyond, Your Honour, in terms of the law. The balance of convenience, I think, is - is quite stark and clear. It's the rights of Ms. Li and the other putative class members to not be exposed to permanent harm and to the - and to private use - pardon me, the - the - the quiet enjoyment of their own homes; the sanctity of their own homes.

Submissions by Mr. Champ

They're being interfered with these protestors.

5 And in terms of the balance of convenience for the
other side, Your Honour, this injunction isn't
moving to say these trucks must move, that they
must unsnarl traffic, they should get out of
parks, et cetera. They can still keep expressing
their opinions. This - this injunction will not
10 prohibit them from continuing to express their
opinions.

If there's other issues that the - you know, the -
the local authorities want to take issue with the
protestors, that's their - that's their issue.
15 This injunction is aimed at the horns. And in
that sense, Your Honour, I would submit that it is
carefully crafted, a narrow type of remedy....
THE COURT: All right, that's fine. No, no, I
understand that.

20 MR. CHAMP: And so, beyond that, Your Honour, I -
again, I could get into the terms of the order,
but it sounds like you want to sort of defer that
issue and....

25 THE COURT: Well, let's - let's - yeah, let's deal
with the - let's deal with the substantive issues
and then we'll deal with the adjectival ones
after, is the - if I do something, how do I do it?

MR. CHAMP: Yeah.

THE COURT: All right.

30 MR. CHAMP: Thank you. So, unless there's any
further questions of the Court...

THE COURT: No, that's fine.

Submissions by Mr. Wilson

MR. CHAMP: ...those are - that's all I have.
Thank you.

THE COURT: Mr. Wilson?

MR. WILSON: Thank you, Your Honour. Thank you,
Your Honour. It looked like I froze there for a
minute, sir.

THE COURT: Okay.

SUBMISSIONS BY MR. WILSON:

I - I would say this as I begin, and sort of to
cut to the chase, but I will go through the
tripartite test, but I - I do want to emphasize
one thing, if I could.

THE COURT: All right.

MR. WILSON: I think when we look at this - this
action and this motion, I feel as though we're
trying to fit a round peg in a square hole in that
we're trying to use - the effort before the court
is to use a private civil remedy, including a
class action, as a means of effectively achieving
municipal noise by-law and police compliance. And
I think....

THE COURT: Just on that point, but can't they do
that?

MR. WILSON: Well, I'm not sure that - well,
perhaps they can, but....

THE COURT: Because I'm remembering an old case,
and I can't even remember what it was called, but
it - basically it was, I think from the English
Court of Appeal, and it said that nobody's above
the law, and that - I think what it had to do with
is - is the issue where you had to have the - I

Submissions by Mr. Wilson

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guess it was a private prosecution. You had to have the Attorney General's consent to bring the prosecution in that level. I don't know whether it's an indictable offence over - it wouldn't be - it would be a felony over there. And the Attorney General refused to grant his consent. And I think it was the English Court of Appeal or the House of Lords said that's - that doesn't make any different". You can't withhold your consent arbitrarily. You can bring this matter to - for an enforcement because you have that right and the executive branch cannot overwhelm that right.

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So, I - you know, I don't know how far that argument takes us, because, as I said, the basic - I think the - why I remember it was that it had in it something about no person, or no thing is above the law. So, there you go. You know, I - whether - to get that argument off the ground, don't you have to do - don't you have to tell me or show me that the plaintiffs in this case are acting improperly?

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MR. WILSON: Well, not with respect to their right to sue and - and exercise their right for damages and nuisance...

THE COURT: Right.

MR. WILSON: ...but - but

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[Indiscernible...multiple speakers at the same time, unable to decipher words spoken], sir, I - I understand....

THE COURT: Oh, you go ahead. You go ahead.

MR. WILSON: Yeah, thank you.

Submissions by Mr. Wilson

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So, what - what I want to say is this, that where we start to get into the quicksand here is - and the comparison you've used with respect to private prosecutions is a good one - is when you get into the issue of - of - of enforcement and the whole problem of in persona vs in ram.

THE COURT: Right.

10

MR. WILSON: And what's unique - you know, so, the order - and I'll look at the - what the police - the - the Ottawa Police counsel has to say in her materials if we need to, but what we've seen consistently is, the idea here is not that a trucker who's blowing his horn, if this order were granted, would be found in contempt, which is normal. You know, information would come before you or one of your colleagues....

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THE COURT: Would have to - would have to.

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MR. WILSON: Well, but they're going way past that. That's my point. They're saying, as soon as you have notice, any police officer can search your vehicle or arrest you....

THE COURT: Okay. But I don't - I - with - with respect, I don't want to get into that. We can...

25

MR. WILSON: Okay.

THE COURT: ...debate that later...

MR. WILSON: Right.

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THE COURT: ...but you see, right now, I have to look at *R.J. Reynolds* and say, okay, should I even give the order?

MR. WILSON: Right.

THE COURT: And then we can get into, if I - if I

Submissions by Mr. Wilson

say that *R.J. Reynolds* has been met and I give the order, then we can get into the debate about how the order should be fenced.

MR. WILSON: Fair enough....

THE COURT: You know, because that's just...

MR. WILSON: [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: ...you know, I don't think your friend is suggesting - and I - I - as I said, I - I'm trying to do this in little bites so that my mind can wrap itself around it. And that is, okay, should I give this order? Because that's the first thing. The first thing is whether I should give play to the protection of a public person's right, or should I say, well, here, in these circumstances, that's absuned (ph) by the right for freedom of expression. Right? That's what it's really about.

Because we can get into - as your friend has justly put it, the real issue here is not the - the first two prongs of the *R.J. Reynolds test*. The - the real issue here is the third one. You know, because we can debate it, he's got - he says there's a nuisance, you know, escaping noise is a nuisance; I don't think there's much debate there. It's not a frivolous thing because they've got some evidence that this person could be hurt by it. Irreparable harm. There's some evidence that it may be. There's some evidence that it may be, like, there's prima facie that noise of this nature can damage you. So, you got the three

Submissions by Mr. Wilson

things - the two things there.

5 The other issue though is, does her right overcome
your client's right to protest, or freedom of
expression, or however we want to call that - you
know, that particular right.

10 But I - I don't know. I don't want to - please
forgive me. I do not want to say, okay, I've
dealt with these two things, let's go onto the
third. I want to hear your argument. That's -
that's my point. But I'm just trying to get,
shall we say, a skeleton so I can hang all these
things on it.

15 MR. WILSON: Okay. Thank you, sir. And - and
also, with respect to - and I'm not going into the
order, but I'm going into the issue of whether or
not this is interim interlocutory injunction or a
- a - just an interlocutory - it's our view that -
20 that Rule 40 does apply and that this is an
interim order because the ex parte nature of it.

THE COURT: That's right.

25 MR. WILSON: Now, our three clients, Ms. Lich -
Ms. Lich does not own a truck. She doesn't have a
truck in - a semi-truck in - in - in Ottawa now.
She doesn't - she's never owned a semi-truck. The
other individual that my - my friend has
30 identified and named is - is Mr. Dichter. He does
have a truck, but he's never had his semi-truck
here. It's currently in Mississauga and he's
never had it in Ottawa. So, he's - they're both
incapable of honking horns. And Mr. Barber does

Submissions by Mr. Wilson

have a semi-truck here, but has provided an affidavit that he's never sounded his horn.

5 So, we're not - my friend is not here on behalf of all the - he can't reasonably be here on behalf of all the citizens or - or grouping of citizens other than that who he claims to represent, which is one individual.

10 So, we just don't have evidence before the court that the named parties, at least those that I represent, are even engaging in a nuisance in the first instance. And - and I think that's relevant. And I think it's relevant to the fact that there are other ways for the goals of Mr. 15 Champ and his client to be achieved outside of this particular approach, and as I will explain, I think it's fraught with danger.

20 The - the protests that have been occurring have - have been peaceful; that's the affidavit evidence before you. The - the - the residents haven't been impeded in their ability to move freely and there - the issue, we acknowledge, is really the 25 noise from - from the honking.

THE COURT: That's the only issue. That's - that's the only issue before me. That's - you know, we can - 'cause there's no - there's nothing here in any of the materials that say that there's - the right of movement has been infringed, that's - it's just the noise, that's it.

30 MR. WILSON: Yeah.

Submissions by Mr. Wilson

THE COURT: And I'm not gonna get into anything else because that's - I'm not asked to.

MR. WILSON: Fair enough, sir. Thank you.

5 Now, with respect to what's happening, the evidence before you as well, and I think Mr. Champ also made some reference to that, is that this is a large group of people who've come in from different parts of the country. Sometimes they
10 come and go. This is not one cohesive unified group. But there also is affidavit evidence before you, and former police officer Danny Bullford (ph), has sworn an - an affidavit about the efforts that some of the volunteers have made
15 to create cohesion and to - to - to work together and try to get the truckers to behave in a similar manner. You heard about how they previously had in place a - a rule or an - an informal accord amongst themselves not to sound their horns
20 between 8:00 a.m. and 8:00 p.m.

The last affidavit I filed with the court, confirms that as of this morning, that same informal group has announced, further to what they
25 heard you say on Saturday, sir, that they are immediately implementning, and requesting all the truckers not sound their horns but for at one time in the day. And rather than noon, they're - they've - they've said 5:00 p.m. for five minutes.
30 So, rather than having the horn sound throughout the day, they announced that, in conjunction with a formal request to meet with the City officials

Submissions by Mr. Wilson

5 because there's been no dialogue, as their affidavits confirms, to open up the lines of communication and try and address some of the issues, and deescalate the tensions and situation.

So, we have this request for an injunction [*indiscernible...ZOOM interference on channel, audio is distorted*] occurring in the face of that evidence.

10 THE COURT: Well, okay. Isn't there some evidence that your clients are - I don't want to use the word controlling, but they have some interests, or they have some function in the organization of the group. Or whatever.

15 MR. WILSON: Right.

THE COURT: There's some evidence of that.

MR. WILSON: I think - I think that's fair. But - but it's - it's - it's a - it's in a sense that - Tamara Lich in particular, I think because she started the Go Fund me page.

20 THE COURT: Right. Right.

MR. WILSON: Yeah, and so she sort of gets naturally - and she's been interviewed by a lot of news people.

25 THE COURT: But - I - okay. But....

MR. WILSON: So, she has moral suasion.

THE COURT: She has moral suasion and so therefore, wouldn't that be a reason that she be enjoined? Because if she is enjoined...

30 MR. WILSON: Well....

THE COURT: ...then - if she is enjoined then that might put moral suasion on, if I were to give an

Submissions by Mr. Wilson

order - if I were to give an order, on making sure that other per - people were aware of the order and that it would be fulfilled.

MR. WILSON: But she has no control - you know, off....

THE COURT: I - I didn't say she had.

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: I - I've never said that - I - I didn't say that. I said she has some function in it, let's say. Which I don't think can be denied.

MR. WILSON: Yeah, fair. Fair, sir. I think - but she has the function no greater than to the extent to which that same loose organic grouping in independent truckers has announced this morning that they are doing exactly what you had suggested might be a compromise.

THE COURT: That's - well, that's fine. That - that's fine. But what I'm simply saying is, if - if - if the *R.J. Reynolds* dictates are made out, okay, then I have to give an order of some kind. And since they have some function in it, of course, they would be named in that order, and I don't think there's anything - if they're not doing anything then, you know, so be it.

MR. WILSON: Fair enough.

THE COURT: Yeah.

MR. WILSON: And I just - I guess what I'm saying....

THE COURT: You know, I'm not - I'm not - you know, if I do give an order, I'm not - there are no sanctions against your clients per se, because

Submissions by Mr. Wilson

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there's - there's no reason to. I have no evidence that they are in fact breaching anything. You know, whether it's the *Highway Traffic Act* or anything, that's up to the police, I can't deal with that.

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MR. WILSON: Right. And I know - I'm not going to get into the terms of the order, but if you find they're made out then we will, and then we're into the enforceability, the in ram....

THE COURT: Oh, I know.

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

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MR. WILSON: All of those *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: But let's - let's just deal with...

MR. WILSON: Yeah.

THE COURT: ...this right now.

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MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: That's - then we can deal with it if we need to.

MR. WILSON: Thank you.

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It's - it's our submission that based on the evidence that you have before you, sir, that there is no evidence as made out as between our clients that they're engaging in a nuisance because they don't have horns and the only - the only evidence before you is that the one person who does, hasn't sounded it.

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Submissions by Mr. Wilson

In addition, there's no evidence before you that my clients - is even - are the source of - of the horns.

5 With respect to the - the - with respect to irreparable harm, you know, irreparable harm, the applicant must, you know - there must be detailed, concrete, real, definite, unavoidable. Vague assumptions and bald assertions are - are not
10 sufficient. The purported expert report or affidavit from the purported expert doesn't even attach a CV, does not comply with the requirements of the rules with respect to the *Court of Justice Act* for - for form 53. And - and I just don't
15 know that it's proper, sir, for you to rely on that opinion evidence given those glaring defects, and our inability, just due to the compressed timelines, to cross-examine on that, for the court to rely on that to support a conclusion of - of
20 irreparable harm.

25 Interestingly, Ms. Li alleges that she's had difficulty sleeping, but then testifies that she can fall asleep with earplugs. I note that my friend had indicated that - that it is not uncommon in the City of Ottawa, he's represented to you, sir, for there to be protests and for them to be loud and prolonged. That that is sort of a flavour and the complexion of the neighbourhood.
30 And when you're - when you're engaged in a nuisance assessment you look at the - the context in which the nuisance is occurring. A loud noise

Submissions by Mr. Wilson

in a - in a - in a quiet place is different than a loud noise in a busy place.

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With respect to the balance of convenience, this is where the *Charter* starts to come in, and as you know, the balancing of rights with respect to free speech. And the - this is not some spontaneous protest in response to a government announcement of today. This is a spontan - this is a spontaneous grassroots phenomenon that started in Canada, is now spreading around the world, in response to what we all have had to endure for over the last two years. And I think - and it's an effort to end that - that - that harm and that hardship. And I think that needs to - it's important to contextualize what - why it is that people came here. That they're - they are seeking to lift themselves and their families from what they believe are hardships that are affecting them and their families, and their communities, and their economies, with respect to the COVID restrictions and the vaccine mandate.

25
So, I - I do believe that's relevant for the balancing and the measuring of balance of convenience.

30
THE COURT: But on the other hand, if we're doing that balancing, how do I balance the fact that we have evidence here that there is harm being inflicted on another portion of society? Like how do I balance that? 'Cause I have - I have some evidence here of that.

Submissions by Mr. Wilson

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MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

I think we have more evidence that it's not. And I mean that seriously, sir. We've got extensive affidavits from Ottawa residents. I - I - you know, as counsel, we don't tell our colleagues how to....

THE COURT: No, no, I know that.

10

MR. WILSON: I - I don't know why we're faced with one applicant - or - or - you know - here - why didn't we - we have more, just a sampling.

15

But in any event, there is - the ev - there - there is more evidence before you that - that downtown Ottawa residents don't feel they're being harmed and that this is part of the democratic process. And that's the evidence before you. And to the extent that there's some substantive allegations of harm, it's based on - on - on - on a purported expert that hasn't even been presented in a way that meets the most basic of requirements to offer such kind of opinion evidence. The case is just lacking, in all due respect...

20

THE COURT: All right.

25

MR. WILSON: ...to my friend.

THE COURT: Okay.

30

MR. WILSON: So - so, those - those are our submissions that - that this is a major city, at the centre - it's a capital city. People have come from across the country on their own initiative, and they're very - they're seeking to free themselves from - from harm....

Submissions by Mr. Wilson

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THE COURT: Oh, no, they're - they - there's no debate. And your friend hasn't said anything about that. That - there's no debate that they have - they have legitimate concerns. Like, they - that's never been part of the argument, as I understand it. That's - he's never even said that. What he's simply saying is, the way it's being carried out is creating harm to his clients. And you have- and I have some evidence of that. And therefore, their protest should be restricted from create - continuing with that harm. That's it. That's all he's saying. He's not - you know, they can do other things besides use their horns. And that's - that's - that's basically where the case lies, is it not?

10

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MR. WILSON: Yes [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

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THE COURT: Because he's not [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] he's not saying get rid of the trucks. He's not saying, you know, you can't be on Wellington Street. It's - there's none of that. That's for somebody else to do.

25

30

He's just saying that if there's an - if I give - I enjoin them from using the horns then - you know, because I - you know, generally what, as he said, and you can help me with this point, he said the use of horns is to bring attention to the protest, right? That's the only reason. Because

Submissions by Mr. Wilson

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it's not an expression, like, honking a horn is not an expression of any great thought, that I'm aware of. Perhaps *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

10

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* and having been down there, I've been astounded at the dance beats that some of the trucks *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

15

THE COURT: Oh, no, oh, no. Well, it could be an art *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

20

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

25

THE COURT: There could be art. There could be artist merit to it, but we're not debating that.

30

What I'm simply saying is, on the fact that bringing attention to the protest, I don't think the horns give or take away from that. There is all kinds of attention for this protest. And he's not trying to stop that. That's not what he's trying to do. He's trying to stop only one part of it.

But I think anybody turns - you know, and I'm not taking judicial notice of this, but I don't think you're gonna deny it, anybody who turns on the news knows about this protest, and it's children, or brothers and sisters, that are protests,

Submissions by Mr. Wilson

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everybody knows that. So, I don't think the horn - the - the - what you're friend is saying is that the only peop - the only thing that the horns are doing at the moment to increase their visibility is to bother the people in the core of Ottawa.

MR. WILSON: The tripartite test in the Supreme Court of Canada decision, and thank you for your comments, My Lord, and your questions...

THE COURT: Okay.

10

MR. WILSON: ...and your - your probing, 'cause I know why you do it and it's - it's the beauty of our - our rule of law process to explore and probe. But the *RJR* test - and I know you don't want to get into the order, I'm not gonna get it, but it doesn't exist....

15

THE COURT: You're [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*]....

20

MR. WILSON: It doesn't exist [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

25

THE COURT: You two are bound and determined to [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] complicate my thought process.

30

MR. WILSON: Well, no, I - I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: I think the two of you would like to - I know what you're - I - I - I'm being - I - I'm being perhaps more coy than I should be. But I'm just saying, no, I know what you're saying...

Submissions by Mr. Wilson

MR. WILSON: Yeah.

THE COURT: ...I know what you - you know.

MR. WILSON: So, you can't - what I'm trying to say is that you can't - one cannot examine the tripartite test in the absence of the fact that you only use it where it will - either it will or it won't result in an order, an injunction that enjoins the issue.

THE COURT: That's right. Oh, I know.

MR. WILSON: And - and - and so, it's not examined in the absence of that. And so, we do have competing rights. But - and we have - and - and so, the rights of Mr. Champs clients are being weighed against my clients' *Charter Rights* and their common law rights of freedom of expression, their *Charter Rights* of peaceful assembly. And I just - I believe that that really mitigates and weighs in favour of - of finding that the balance of convenience test isn't met, and in part, because it's weighing the balance of convenience in the context of an order that will enjoin. And for all the reasons we've already struggled with at different points, both Saturday and today, it just gets really messy and ineffective.

[phone ringing in background] - I apologize, Your Honour. We're in a hotel room. I have no idea who is phoning.

THE COURT: Don't worry about it. I'm surprised mine hasn't rung. So, just....

MR. WILSON: Okay.

THE COURT: I understand - I understand the

Submissions by Mr. Wilson

exigencies of doing things by ZOOM.

MR. WILSON: Thank you. So - so, those are my submissions, sir...

THE COURT: All right.

MR. WILSON: ...with respect to - with respect to the application and the test, sir.

THE COURT: All right. Thank you. All right.

MR. CHAMP: Would you like a break, Your Honour, before I....

THE COURT: I don't know whether I want a - I'm trying to think of what I'm gonna do. Okay. It's - like, it would be lovely to have three weeks where I could write something, but that's not the way this thing works, and I know that. I've been doing this long enough that I know that.

So, with respect to the - excuse me.

MR. CHAMP: Your Honour, will I - will I have a right of reply? If I could, I've got....

THE COURT: Oh, yeah. Go ahead. Please, go ahead.

MR. CHAMP: Sure.

REPLY SUBMISSIONS BY MR. CHAMP:

Just a few point. My friend - I think Your Honour fully understood the issue when my - my - opposing counsel was saying that - you know, the police - this is a policing issue, and I think Your Honour was very much on point, but I can give you a reference that confirms that your - your opinion is correct. *MacMillan Bloedel* at paragraph 17 and 18, the Supreme Court of Canada confirms that even

Reply Submissions by Mr. Champ

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if it's a - because the - the respondents there we're arguing that same issue that Mr. Wilson is advancing. The Supreme Court had no - no difficulty dealing with it, saying, yeah, it may be a policing issue and a criminal issue, but private citizens have the right to assert their private rights to obtain an injunction. But anyways, that's an authority to support the - what you were expressing there, Your Honour.

10

A few other points my friend made - he said that the - his clients aren't using horns. And I guess I would just reiterate, why are they opposing this motion? I just - I - I don't understand that.

15

My friend then makes the suggestion, I don't know if it was a serious suggestion, that - that my client could wear earplugs. I'm not sure if that was serious or *[indiscernible...ZOOM interference on channel, audio is distorted]* but I find it offensive.

20

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30

THE COURT: Well, no, just on that prior point about your friend and why they're doing it. The difficulty with that proposal is as follows: I have no idea, nor can I know, what instructions is passed between his clients and himself. I don't know. And - and you know, I can do - which is not helpful, I can do constructs in my head or thought - thought problems where it might, but that's not the point. The point is, your friend is here in good faith saying he's defending his clients and be that as it may.

Reply Submissions by Mr. Champ

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You know, the - there's an issue between what counsel do, there's an issue as to what evidence is called. And on the - what evidence is called, I can - if no evidence is called, I can draw certain inferences. But I don't think I can draw inference from what counsel say or don't say because that's entirely in their purview and their rights. And be that as it may. Okay.

10

MR. CHAMP: On my friend's argument about the evidence of Dr. Scherer saying that this is inadmissible opinion evidence because there wasn't a Form 53 filed. Our submission is the court could overlook that technical defect given the exigency of the situation. But in any event, if the court was of the view that, you know, they should be accepting opinion evidence without the two sentence, sort of, certificate, Form 53, if you look at her affidavit, much of it is actually fact evidence as opposed to opinion evidence. At the end, I believe it's in paragraph - I might be wrong, but I believe it's 13 and 14, she gets into her opinion that - pardon me, 10 to 12.

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25

Paragraphs 10 to 12 of her affidavit, she - she expresses an opinion that the residents of Ottawa may be suffering permanent hearing damage based on that.

30

If absolutely necessary, Your Honour could not rely on that evidence. But her early evidence about loud sounds and decibel levels, and about the - the risks that they pose, that's fact

Reply Submissions by Mr. Champ

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evidence from a doctor in these circumstances.
And you also, obviously, fully have the evidence
of Mr. Barr (ph) and Ms. Li about the sound
levels, which are extreme.

THE COURT: Okay.

10

MR. CHAMP: The other point my friend - he started
talking about the content of the expression. I -
again, I think Your Honour was on that - the
content of the expression is not relevant here.
You know, there's - you know, these individuals,
if they want to protest and express their opinions
that's - that's perfectly fine. I don't think the
content of expression would ever really be
relevant in an analysis like this. I'm - you
know, maybe perhaps, if it was the most extreme
kinds of expression like hate speech or white
supremacy, or so forth, that might be relevant,
but that's....

15

THE COURT: That's before - it's before me.

20

MR. CHAMP: That's before you. Exactly. That's
what I'm saying. So...

THE COURT: Yeah.

25

MR. CHAMP: ...it's - I don't - I don't think my
friend's arguments really have any relevance right
here.

30

And then the final argument I would like to
address of my friend, is why the applicant. Why
only one applicant? We've already put in
authorities, Your Honour, that propose class
actions can be used for a - an injunction. But I
will say this, Your Honour, my client is

Reply Submissions by Mr. Champ

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incredibly brave. I can advise you of this, Your Honour, and this may well be subject of a subsequent motion here in the next day or two, I've already advised my friend of this, but he - he didn't deem it appropriate on his side to even respond. My - my client has been subject to threats...

THE COURT: Okay, well....

10

MR. CHAMP: ...and vile abuse online. Her phone number has been put online, Your Honour, and people are calling her.

15

Now, I - I - my friend might say, well that's not evidence, well, Your Honour, I'm just putting the Court on notice because this is relevant to this court. If there is a litigant who is receiving threats because they are participating in a court proceeding, that is inherently a matter of contempt. And I think it is appropriate on my part, as an officer of the court, to inform the court of that. And I would add, Your Honour, if I may....

20

MR. WILSON: Your Honour, this is completely improper....

25

MR. CHAMP: I - I would add, Your Honour, if I may. *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*. Sir, keep interrupting, you can speak during your time, Mr. Wilson.

30

THE COURT: Just - just - just speak to me. Just speak to me.

MR. WILSON: Your Honour, this is completely...

Reply Submissions by Mr. Champ

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MR. CHAMP: Your Honour - sir, sir...

MR. WILSON: ...inappropriate.

MR. CHAMP: ...Mr. - Your Honour, I'm speaking....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

THE COURT: Okay, well....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: I request that the court - I, please, request the court to direct Mr. Wilson to wait until I'm done.

THE COURT: Well, he's got an objection - he's got an objection.

MR. CHAMP: Okay. He hasn't even heard what I have to say.

THE COURT: Well....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

MR. CHAMP: I'm not finished my....

MR. WILSON: I have an objection based on what you've said.

THE COURT: Okay. Go ahead, Mr. Wilson.

MR. WILSON: There - there's no evidence before the court of this. It's highly inflammatory.

I've received personal threats. So, I just think this is improper and it's tainting this hearing. We've - we've...

THE COURT: Well, I'm not gonna - I'm not gonna....

MR. WILSON: ...never *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* evidence before the court.

Reply Submissions by Mr. Champ

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THE COURT: It's not - there's no evidence before me. Okay. There's - there's no evidence. And you know, Mr. Champ, yes, I can hear what you're saying and it may be relevant for another proceeding.

10

As far as the issue of one client bringing this motion, a person can bring an action for a private nuisance and ask for an injunction. That's fine. That was the point of the discussion I had, I think, on Saturday, saying isn't it enough if one person comes forward and says - says that they have a problem with the nuisance. Isn't that the case?

15

MR. CHAMP: Yes, Your Honour. The only - the only difference then, Your Honour, is if it was a private nuisance on her own, I don't know if my friend would take this, then she would have to disclose her address about where specifically she's experiencing the nuisance rather than on a classified basis. And I can presume...

20

THE COURT: No, no, I'm not - I'm not....

MR. CHAMP: ...we would then - she would then be in danger, Your Honour...

25

THE COURT: I'm not....

MR. CHAMP: ...that's the nature of what's going on right now.

30

THE COURT: No, no. A private nuisance, if a person has brought it before the court, right, whether there is a class action or not, because the class action has not been certified, we're at very early stage, I can act on that one person's

Reply Submissions by Mr. Champ

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plea to grant it, without getting any further on the basis of the fact that she has brought a potential class action. There's enough evidence. There - in the pleadings, there's enough that - notwithstanding it's a class action, that she may have been suffering from a nuisance, and let's leave it at that, shall we.

10

You under - you see where I'm going with it.

MR. CHAMP: I do, Your Honour.

THE COURT: Or my thoughts anyway.

MR. CHAMP: I do, Your Honour.

THE COURT: All right.

15

Because you get in - I don't want to get into it. This is a private nuisance. It is not a public nuisance, it's not a nuisance under the *Criminal Code*. It's not that kind of thing. That's not been alleged. And I'm not gonna get into that because there's a whole issue in law about public and private nuisances and their nature, and who can bring the proceedings and all this kind of thing. This is a private nuisance, one person, true enough, on behalf of a class, but one person has brought the application. There you go.

20

25

MR. CHAMP: Thank you, Your Honour. Thank you, Your Honour.

30

So, just then to conclude, Your Honour, two points. Just one, just reiterating costs. We would ask for costs in the substantial indemnity basis given again, that the respondents, on the

Reply Submissions by Mr. Champ

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one hand they say, we don't - we're not even honking horns yet they're vigorously opposing....

THE COURT: Well, let's go - let's find out....

MR. CHAMP: If you grant it.

THE COURT: Yes.

MR. CHAMP: Then Your Honour, I would just ask, in terms of speed. In terms of speed....

THE COURT: Well....

10

MR. CHAMP: If I may, Your Honour. If I may, my - my friend has submitted an affidavit that he's described to you, this - the one that is submitted after the hearing commenced from a Mr. Morazo (ph) saying that there's been an agreement to - they've stopped the honking and they're only going to do it once a day at 5:00 p.m. We're - we're about - we're about to - we're gonna submit an affidavit in about five minutes from our client that there....

15

THE COURT: Well, we're not gonna....

20

MR. CHAMP: Rail horns....

THE COURT: We're not having anymore affidavits. I'm gonna rule on this on the record I have. And I have not heard that five o'clock affidavit and I'm not gonna refer to it.

25

MR. CHAMP: All right, Your Honour, that's - those are all my submissions other than to say, this is a serious issue. Every hour that goes by, there's harm. Every hour that goes by at this stage, there is harm to the people of Centretown...

30

THE COURT: All right.

MR. CHAMP: ...and those are our submissions. Thank you.

Reasons for Decision

McLean, J.

5 THE COURT: Thank you. Anything further, Mr. Wilson, on behalf of that?

MR. WILSON: No. Of course, I - I - I would like to speak to costs at the appropriate time, but I think....

THE COURT: Well, we're not - we're not - we haven't got to that stage.

10 MR. WILSON: I know. I just wanted to be clear, I didn't want to [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

THE COURT: No, no, that's fine. That's fine.

REASONS FOR DECISION

15 Transcribed *verbatim* as spoken on the record for purposes of judicial review and can be checked for accuracy by listening to the Liberty DCR audio recording
0411_CR34_20220207_093144__10_MCLEANH.dcr

20 MCLEAN, J. (Orally):

25 Well, obviously, this is a matter that has to be dealt with. It was put over from Saturday to ensure that there was a full and fair record before the court, which is necessary for an adjudication. I know that there's - because of the notoriety of this whole thing, that everybody is of an opinion, I think, out there, that this - the court does things by plebiscite. It certainly doesn't. I have an oath to follow. I have to look at the facts that are brought before the court. And whatever people think out there, that is not of great relevance to what I have to

30

Reasons for Decision

McLean, J.

decide.

5 The only issue before the court is whether an
injunction should be granted in some terms with
respect to the use of vehicle horns as described
in the *Highway Traffic Act* for the Province of
Ontario. That is how the motion is set forward.
And whether, on that basis, I should grant an
interim injunction.

10 With respect to the injunction, it is this Court's
view that the injunction, if it's granted, will
only be for 10 days. It is - because there are
certainly a plethora of people that have not been
15 served, or have not attorned (ph) to the
jurisdiction of the court.

20 Now we deal with the factual basis for which the
application is made. The factual basis is one
particular individual, in Ottawa, has brought
evidence of the effect that the constant use of
air horns, or truck horns, or whatever, has upon
her with that.

25 There is another individual who got an app for
their cell phone and went around the centre part
of Ottawa, where this protest is alive, and
measured decibel levels, which is found in the
affidavit. I will not go back - rehearse that
30 because it's clear in the affidavit record, that I
do not need to.

Reasons for Decision

McLean, J.

5

The third affidavit is one from a doctor who is an otolaryngologist at the University of Ottawa and has a practice. The main part of her evidence, aside from opinion of potential loss - or continuing loss (ph), was the effect that the noise of such horns would have upon various individuals and how it could - there would be effects that may be of a permanent nature. And I say maybe because it has not been tried, and of course, that's the level of the evidence before us.

10

15

In reply, we have evidence from - there - the named individuals that Mr. Wilson has represented, quite eloquently, about how in reality one has no truck here, one never did have a truck here, and the third one had a truck but didn't use the air horn. That's their nature.

20

25

There are other affidavits of other people who have been around the area and - and really, the import of the affidavits are that people were having a good time. There are some affidavits saying that they could, even with the air horns, they could hear a conversation. The issue on that factual basis then leads us to a consideration of where - whether an interlocutory injunction should be given.

30

The test, of course, for obtaining an interlocutory injunction is articulated in the Supreme Court of Canada in *RJR-MacDonald Inc. v.*

Reasons for Decision

McLean, J.

Attorney General.

The moving party [must be satisfied] must demonstrate [that] a serious question [is - is] to be tried. [As Read]

Clearly, on these merits, the court has not much difficulty in finding that the test has been met. This is a serious issue that has to be - that should be tried on the effect of the air horns on particular people, who is responsible for that, et cetera.

The third - or the second part of the test is whether

[The moving par -] The moving party must convince the court that it will suffer irreparable harm if relief is not granted. 'Irreparable' refers to the nature of the harm rather than the magnitude [of it]. [As Read]

Here, on the basis of the evidence of the plaintiff, of the person who has measured it, and of the doctor. Now, objection was taken to the doctor that he perform as an expert witness's report was not filed. However, given the importance of this issue and the need for a determination on this most preliminary matter, the court accepts the evidence of the doctor. And therefore, it is the Court's view that irreparable - the irreparable nature of the harm has been made out.

Reasons for Decision

McLean, J.

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That leaves us the third branch, which requires an assessment of the balance of inconvenience.

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Clearly, what we are dealing with here is, we are dealing with the right for security of person vis-à-vis the right of expression and protest. Both these rights exist. There is no debate on that. People have a right to protest various things in various ways. That is enshrined at common law for many eons, and also in the *Charter*.

15

However, in the Court's view, there's really no difference between the rights given by the *Charter* and the rights that already existed in common law. Certainly, people have a right to protest things, particularly governmental things, that they don't like. And the nature of that protest is really not something that can be accurately assessed because it, in large degree, is a subjective matter within the sole interest of those people demonstrating.

20

25

30

However, in these particular circumstances, we have the issue of the fact of the manner of self-expression, that is the continual honking of - or using horns on vehicles, trucks in particular, which are having an effect on the people in the particular area of this protest. That is clear from the evidence of the plaintiff, it is clear from the other evidence, and it is also clear from the evidence put forward in the affidavit of Mr. Bufford (ph), who apparently is a volunteer

Reasons for Decision

McLean, J.

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security official with the group, wherein he suggests that the honking of the air horns would be restricted from 8:00 p.m. to 8:00 in the morning. Clearly, the inference that the Court draws from that is, quite frankly, that the defendants, or at least the evidence on behalf of the potential defendants, comprehends the fact that there is a deleterious nature to the use of these horns. When we consider this as a whole, we are of the opinion that the balance of - balance of inconvenience has been made out, in that the rights of the citizens for quiet, if we can use that term, and I know it's not a legal one, but a right to quiet, has been made out as the overcoming or being the overriding right here. And for those reasons, an interim injunction will be granted. All right.

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20

Then we get to the terms of the order. And I can tell you right now that the order will only be for 10 days because clearly the fact is that there are a myriad of people that have not been served with this, and they may have their own interests that they wish to bring to the court on the basis of the injunction being made of a permanent nature. All right.

25

30

So, what do you want to do then about the order?
MR. CHAMP: Well, I would submit, Your Honour, that we should give an opportunity for legal

counsel for the Ottawa Police Service, who is monitoring this hearing and has been watching it, to participate and - and have some say.

5 The way we've crafted the order, it has some language about the Ottawa Police, that's - that's what the Ottawa Police had requested. And so, they - they would like an opportunity to address that, so....

10 THE COURT: Well, first of all, should we take some time for Mr. Wilson to read the letter and perhaps talk to the Ottawa Police? I don't know.

MR. CHAMP: Sure. Sure.

THE COURT: I'm in your hands.

15 MR. CHAMP: I'm - I'm fine with that. Yeah. We could probably arrange a three-way call between us or something like that.

20 THE COURT: Well that's why - why don't you do that because I don't - Mr. Wilson doesn't know, I don't think, what they're demanding.

25 And of course, the other thing, this is a civil contempt matter. So, what happens is, if somebody is found in contempt, they have to be brought before this court. And so, it's gotta be crafted in that way. It's not just as simple of arresting people. That's not what happens. The only purpose of arrest is to bring it before a judge of this court, because as I say, it's civil contempt if it's a global order. All right.

30 I'll give you 10 minutes and you - you know, you

can let me know and see what you can do. All right. Thank you.

We'll stand down for 10 minutes - or 15 minutes, I guess.

MR. WILSON: Mr. Champ, can you - can you phone number and please, don't broadcast it, because there's, I believe 800 people....

THE COURT: Yeah, I'll - we - I will absent myself and the court can put you in a breakout room where nobody else is privy to it.

MR. CHAMP: I guess the only question then, Your Honour, would be, how we get the Ottawa Police counsel. I - the court has her information. They might be able to send her a panellist invite so she can join with us.

THE COURT: Yeah, well you can - okay. What I'll do is, I'll get the registrar to put you in a breakout room. You can set up how you want to deal with the Ottawa Police...

MR. CHAMP: Yeah.

THE COURT: ...counsel, et cetera, et cetera. And that will be private so you will not be subject to me or anybody else. All right?

MR. CHAMP: Okay. I'd ask the court - oh, sorry, I apologize.

THE COURT: No, no, no, no, you go ahead. I'm just simply - I can - I - I'll just stop my....

MR. CHAMP: No, I can manage that. I was just gonna request, for putting in another room, I'd just ask my co-counsel, Christine Johnson, to join me.

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THE COURT: Okay. Well, you - you can deal with that. I'll just absent myself. You can go - you can go wherever you want.

MR. WILSON: Thank you, sir.

CLERK REGISTRAR: Mr. Champ.

MR. CHAMP: Yes.

CLERK REGISTRAR: Is it Champ or Champ?

MR. CHAMP: Yes.

CLERK REGISTRAR: If you know the e-mail....

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R E C E S S (2:36 p.m.)

U P O N R E S U M I N G (3:22 p.m.)

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MR. CHAMP: Your Honour, I apologize, I believe Mr. Wilson is just gonna be sent - we've sent a draft version of the order that the Ottawa Police Service and the plaintiff has agreed to. Mr. Wilson has some comments on it. I think the - I think the plan is he's going to send us a version, and the Court a version with track changes. And I apologize, we had a variety of technical difficulties all the way around on just about every technological level between all three of us, but we've been working as hard as we can to assist the Court.

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MS. STEWART: And Your Honour, it is Vanessa Stewart for the Ottawa Police Service. I just wanted to clarify, the Ottawa Police Service is consenting. There are terms with respect to police enforcement, and that is what I'm speaking to here today, the enforcement clause. And we are

consenting to the enforcement clause as outlined
in the draft order submitted by Mr. Champ to the
Court.

5 THE COURT: I think I'm getting Mr. Champ's order.
I'll just see if I can print it so I've got
something.

... PAUSE

10 Well, I have yours and just - Mr. Champ, just
before we go on to - I think it has to come back
to a fixed date.

MR. CHAMP: Yeah, I - I agree with you, Your
Honour. That's fine.

15 THE COURT: So, it'll have to come back to the
court.

MR. CHAMP: On the 17th?

20 THE COURT: I - I presume - well, there's a whole
issue about that, which I don't particularly want
to get into, as to whether the order self-
destructs on the 17th. So, we'd better come back
on the 16th.

MR. CHAMP: Okay, thank you.

25 THE COURT: And at ten o'clock in the morning.
And I presume it comes back before me.

All right. Now, I just wonder if I've got your
comments, Mr. Wilson. Let's see.

30 MR. WILSON: It was - Mr. Champ, did you receive
that e-mail that I sent to - that we were all
using? The distribution list?

MR. CHAMP: Yes, I have it, Mr. Wilson. I have

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your comments. So, you want - as I understand your comments there, Mr. Wilson, you want it to take affect tomorrow at noon, is that right?

MR. WILSON: Yeah, I'll wait until perhaps....

MR. CHAMP: So, one - one more night of partying, that's the - that's the view - the position of the respondents?

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MR. WILSON: I want to make sure that His Honour has the benefit of - of having the track changes version to make this - his decision making efficient.

THE COURT: Okay, just - I'll just see what I've got. I'm getting as many e-mails as - I guess Mr. Champ is the winner, are you?

15

... PAUSE

I'm getting so many copies of the order, I don't know.

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MR. CHAMP: I know. I - yeah.

CLERK REGISTRAR: The last one with Mr. Wilson's changes came in at 3:26, Your Honour, from Ms. McKinley (ph), and it's addressed to
[indiscernible...ZOOM interference on channel, audio is distorted].

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MR. CHAMP: I apologize, Your Honour, we're doing our best to work under short timelines.

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THE COURT: No, no, I - I know. I'm not - well, Mr. - are - is your order - just so I've got the - is your order simply that I issue the order for the interlocutory injunction that takes place at 12 on - on - that's the one you're....

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MR. CHAMP: Yeah, that's his - that's his, Your Honour. You got it. They want it to start at noon tomorrow.

THE COURT: Okay, well, I'll print it. And just give me a second, and so, I'll have the two of them.

MR. CHAMP: I think I understand the differences that they want.

10
... PAUSE

CLERK REGISTRAR: And Mr. Champ, just so you know, I don't see Ms. Johnson anywhere to let her in.

MR. CHAMP: Oh, okay. I'll - I'll text her.
15
Thank you, Sir.

... PAUSE

MR. CHAMP: Your Honour, I think I understand the changes my friend is seeking now. I could probably summarize them for you, or he might - maybe - perhaps you want Mr. Wilson to address the - the different language that he wishes.
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THE COURT: All right. Well, perhaps Mr. Wilson can speak for himself.
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MR. WILSON: The first concern, sir, that we're seeking to address is adding language to allow word to get out and people to know. We don't want to, obviously, have a situation where people don't know the law and then be told they're in breach of the law. So, we're proposing that the order would become effective tomorrow at noon.
30

And then I can move to the next change, if you'd like, unless you have - want to stop here.

5 THE COURT: Well, obviously, if they don't have notice, they're not in contempt.

MR. WILSON: Okay.

10 THE COURT: So, it's - the onus is on Mr. Champ to make sure they have notice, or the police, before they can enforce it. 'Cause the - so that, you know, the starting date, I don't think - the main issue is, first of all, and you can both help me with that point is, how do we get notice to them?

MR. CHAMP: Well - I'm sorry. I'm sorry, Your Honour.

15 THE COURT: Okay, well, you know - help me with that point. Because there's no application for substituted service, right? So, I have to do something. I have to use my discretion as to giving them notice because of course, contempt is a very, very serious matter. And it's not a - I suppose contempt is really, and you can both help me with it, that - it's as serious as any indictable offence because the penalty is in the court's discretion.

25 MR. CHAMP: Yes.

30 THE COURT: You know, and so, that's - that's my concern. Is, we've got to make sure, whatever we do, that notice is given and *[indiscernible...ZOOM interference on channel, audio is distorted]* at this time, no matter, I - I think the date, Mr. Wilson, with respect, it may be fictitious because I don't think that's gonna help anybody. Because

first of all....

MR. WILSON: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: First of all, we have to do is, how are we gonna get the word out there? Is it gonna be in the press? Is it gonna be on, you know, social media? What do you - you know, I....

MR. CHAMP: What we've proposed, Your Honour, is a few - a few ways. One is we've requested that the named respondents who are parties here, Ms. Lich, and Ms. *[sic]* Dichter, and Mr. Barber, that they communicate the order out through their social media and e-mail channels to those persons who they know...

THE COURT: Well....

MR. CHAMP: ...who have been associated with the protest or are currently associated with the protest.

Then we also have a provision that - we had proposed that notice of this order may be given by posting copies of this order in or around downtown Ottawa. By reading the order to any person, including but not limited to reading the order over an amplification system, and/or by publishing this order online, including on social media accounts associated with the defendants.

THE COURT: Yeah, but you see, the - the - the concern I have with that is, the - I can see the other parts of it, but getting them to the - the defendants to publish it presumes they have more of a connection with the thing than maybe has been

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proved. And then you get into this other business of, if somebody says they didn't - they should have got it through them, are they in contempt?

MR. CHAMP: I wouldn't - I wouldn't say so, Your Honour. I mean, if we find out somewhere later down the road through discovery...

THE COURT: No, no, I....

MR. CHAMP: ...otherwise that Mr. Barber and Ms. Lich did have a big e-mail list of people and they didn't communicate the order, well, make no mistake, we will look for some kind of....

THE COURT: Well, I think what we would simply do is, that - it'd be suggested to those persons that they communicate.

MR. CHAMP: Your Honour, I - I would - with - with great respect, I would forcibly request that this court direct and order these respondents. They showed today. They said, "We don't honk", but they showed up today to defend it. And we also have evidence before the court from Mr. Bufford (ph) that there is a convoy leadership team. And I do not think it's unreasonable just - and how difficult is it for these individuals just to send out....

THE COURT: Well, okay. We'll do that.

MR. CHAMP: ...the order to those individuals to whom they know - they're communicating to them somehow. The scene (ph) - convoy leadership team is communicating to them somehow, and Mr. Bufford (ph) isn't a party to this, so you can't make an order to him - for notice.

THE COURT: No, no. I can't do that.

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MR. CHAMP: But you can't for him. But for Ms. Dichter [sic] and Mr. Barber, and Ms. Lich, they are parties. And I do not think it's a - it's unreasonable to ask them to - to publish that order through their social media channel.

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THE COURT: Okay. Well - well, they can publish it through their social media channels. That's fine. That's neutral. But I just want to make sure that that is - see the problem....

MR. CHAMP: And then....

THE COURT: The problem you've got is this, what's their social media channel? I don't have an idea. Okay. So....

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MR. CHAMP: Your - Your Honour, with all due respect to my friend, if you look at how he's crafted this, he's looking for every way to create means for people to, you know, come up with plausible arguments to evade the order that they can't [indiscernible...ZOOM interference on channel, audio is distorted]. He's insisting that we have a process server go around to every individual truck. I mean, I won't even get into the safety issues of that, but in any event, I don't think it's unreasonable, with all due respect, to ask that they send it out through their social media channels, whatever - however, they may - however they maybe described.

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Social media channels is fine. If they say - how about this, we could say, any social media channels that permit the user to send out images. Like Mr. Barber, I know, for example, has a

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twitter account. It's called "Honk" something or other, so I guess he understands honking and - and that. And so, if Mr. Barber's got a social - social - any social media account where he can publish a document. I don't think that's too unreasonable, Your Honour.

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THE COURT: All right. Well, that's - that's *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

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MR. WILSON: My Lord?

THE COURT: Yes?

MR. WILSON: My co-counsel has just brought to my attention that, in fact, the tech companies have been blocking some of my client's social media and taking their Facebooks down and so on. So, this is a - this is murky water, sir.

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THE COURT: Well, what - how we can deal with that is any social media that is effective for them. If it's blocked, they can't do. It's as simple as that.

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MR. WILSON: Maybe it would cause the tech companies to put their social media back active again.

THE COURT: I'm not making that order. I can't. They're not a party to this.

MR. WILSON: Nor am I asking, sir.

THE COURT: No, no, I know you're not. Anyway. Okay. So, that's that part of it.

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What about....

MR. CHAMP: And Your Honour, I - I apologize, Your Honour. Just on the other bit about just making

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it general, those - that's the terms in those other draft orders that we provided to you that are - not - not draft orders, orders that were issued by the court, at Tabs 19 and 20 of our supplementary motion record. That - that's how the - the notice provisions were handled. These are common notice provisions, Your Honour.

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If you look at some of the other jurispru - the - the case law that we put to you, some of them have the terms of the order at the end, in terms of notice, and it's similar. And then we've given you two orders that other courts have issued. So, in terms of - like just making them - I apologize, I'm just gonna go back to the language that we used here. We drew it precisely from those court orders saying....

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MR. WILSON: Your Honour [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

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MR. CHAMP: ...notice of this order may be given by: posting copies of this order in or around - and then it's - we say downtown Ottawa, but in the other case it was a location - by reading the order to any person, including but not limited to reading the order over an amplification system and/or by publishing this order online, including on social media - well, the social media accounts is one that we - we added, but everything else up to that is - is language that we've drawn from other court orders issued by courts.

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MR. WILSON: Your Honour, I can assist. My

clients, I believe, are reasonable people and if they can assist the court in
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

5 THE COURT: That's fine. That's fine.

MR. WILSON: ...word out, we don't have a problem. As long as there's not an adverse consequence if they get blocked.

10 THE COURT: Well, there won't be. There won't be. Well, if - if they're blocked, they can't. It's a...

MR. WILSON: Yeah, I just want to
[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

15 THE COURT: ...new thing that's intervened.

MR. WILSON: Yeah, they'd use reasonable efforts, sir.

THE COURT: All right. So, okay. That's that part of it.

20 MR. WILSON: The earlier paragraph, sir, is about the geographic area. I'm just trying to make this precise as possible given - because of the seriousness of this. And - and it being an injunction against - almost in the form of in ram, that the greater precision that can be brought,
25 means greater certainty and equity.

THE COURT: Well, what's - what's your view on that *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

30 MR. WILSON: The track changes - we've - in the track changes document, we're saying instead of all of Ottawa we're saying in the geographic area

5 described - and this is in the document I've provided. I realize you may not have it in front of you. In the geographic area described as east of Bronson Ave, north of Gloucester Street, west of Queen Elizabeth Drive, and south of TransCanada Trail. And then we have the duration.

THE COURT: What about that, Mr. Champ?

10 MR. CHAMP: The - the difficulty with that, Your Honour, is that these trucks have been in different parts of Ottawa. Some have been out at Coventry Road and so forth. And I'll add this, Your Honour, the way we framed that is, we drew the language from Section 74 of the *Highway Traffic Act*. That's - it's - it's - it's
15 practically the same as the language of the *Highway Traffic Act*. So, it's *prima facie* an offence under the *Highway Traffic Act* to be using an air horn unreasonably...

THE COURT: Oh, I know that.

20 MR. CHAMP: or unnecessarily. And then there's the exception, obviously, for....

THE COURT: Yeah, but you, I think, in some of your documents, and maybe I've forgotten, you ask for an area to be enjoined.

25 MR. CHAMP: This - in our original draft...

THE COURT: And so, that will be....

MR. CHAMP: ...in our notice of motion.

THE COURT: And that'll be the area of the injunction. Okay.

30 MR. CHAMP: So, the language that Mr. Wilson has put forward?

THE COURT: Well, no, I don't know. I can't - I -

like....

MR. CHAMP: So, I'll agree with the - the language Mr. Wilson has.... The only - Your Honour, this a little bit like - so, he - we're abandoning the people of Byward Market, we're abandoning the people of Lowertown...

THE COURT: No, well, I don't....

THE COURT: ...abandoning the people of Sandy Hill.

THE COURT: No, I don't know...

MR. CHAMP: Abandoning the people near Coventry and - and the Jet Form Ball Park.

THE COURT: ...what you.... Mr. Champ, you, in your original document, had a boundary, right, whatever that was. And I can't recall because my mind doesn't....the area of the injunction will be whatever you ask for in your originating document, okay.

MR. CHAMP: I'll have to take a look what we said in our notice of motion. Your Honour, I - Your Honour, I'll be back - with - with the greatest of respect, Your Honour, if these trucks move onto Queen Elizabeth Driveway and start blowing their horns there, if they move into Lowertown and Byward Market, we will be back before you...

THE COURT: That's fine. That's fine.

MR. CHAMP: ...within a day.

THE COURT: That's fine. But I'm saying....

MR. CHAMP: Well, not fine for those residents. With the greatest of respect, Your Honour.

THE COURT: I'm not....

MR. CHAMP: Not fine for those residents.

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THE COURT: I am not saying that. I am saying, you requested a particular geographic area and that is going to be the area of the injunction, okay. It's what you asked for and that's what you'll get.

But the City of Ottawa is basically, unenforceable.

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MR. CHAMP: It is - it's not. With great respect, Your Honour, it's not unenforceable.

THE COURT: Well, I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

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MR. CHAMP: The geographic boundaries of the Municipality of Ottawa are well known.

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THE COURT: Well, that's fine. I have decided it will be whatever you asked for in your originating notice of motion, and that's [*indiscernible...ZOOM interference on channel, audio is distorted*] to the rest of it. Okay.

Let's go on to something else.

25

MR. WILSON: My Lord, what we've proposed is that, given that we're talking about civil contempt here, in paragraph 4, we've proposed that it say that the court orders that the applicant shall be permitted to bring an application for contempt of court against any person with notice, who is alleged to have violated the terms, as opposed to automatically jumping to the idea of a person being arrested. Again, this is a civil enforcement - this is - this is a private remedy.

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It's unique. There's - doesn't have the same due diligence and fair process procedures that - that we have in our criminal courts, as we all know, and that's what we've proposed, sir, and - and the wording is in our revision.

THE COURT: Mr. Champ?

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MR. CHAMP: Yes, Your Honour. The - it's not only that section, but all - basically, Mr. Wilson wishes to remove all of the language referring to the Ottawa Police and any enforcement by the police. These kinds of provisions are in other civil contempt orders. The Ottawa Police has indicated that they have other orders similar to this, and that's - it's easier for them to enforce. Because it is always open to a peace officer to enforce an order of the court, at any time, whether it says it expressly or otherwise, but the Ottawa Police have requested these specific terms because it makes them easier to - to manage for themselves.

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So, it doesn't matter whether we have language in there or not saying that a peace officer can enforce, because the Ottawa Police can enforce it. And my friend then adds language, "It'll be enforced by way of an application for contempt". Well, again, you don't need that language. I can enforce a contempt motion, you know, as of right. So, we're just ask - I'll maybe defer to Ms. Stewart, but this is the request of the Ottawa Police because again, they would have the right - an obligation, I would submit, to enforce any

order of the court and they've requested these terms to make it easier for them to do so. Thank you.

5 MR. WILSON: Your Honour, if I might. My friend seems to be treating this as though he's asking you to draft the terms of a contempt order, and that's our difficulty. Is that, as we all know, 10 contempt is a very orderly process when someone is believed to, or alleged to have engaged in it, for the serious reasons that Your Honour's already identified. And we're not here to - we don't have someone in contempt. We're - we're creating a process so that the order will be consequential, and meaningful, and clear, but if someone breaches 15 it, there'll be a process where they could be found in contempt. But we're not drafting, with all due respect, at least that's my understanding, the contempt order right now.

20 THE COURT: Ms. Stewart, have you anything to say on this?

MS. STEWART: Thank you, Your Honour. I am of the position that the Ottawa Police and a police officer can enforce an order of the court.

25 What we are requesting here, in the language that has been proceeded, has been provided on consent by the moving party and the Ottawa Police Service, is really, you know, if the Ottawa Police is called upon to enforce the injunction, we are 30 providing what the Police Service believes is the most appropriate language for that purpose, as opposed to exercising the polices' discretion to

enforce a court order as a matter of course.

5 And so, ultimately, if Your Honour does consider to include this wording within the order, I would respectfully ask that the language provided to the court be the wording that is used.

10 THE COURT: Well, first of all, I don't think, in 5, I don't think (c) is appropriate because I'm not issuing any search warrants. It says, "To search any place, seize any item, where the police have reasonable probable grounds to believe" - well, this is open and we don't need that.

15 ... PAUSE

20 MS. STEWART: Your Honour, if I may just address that specific clause, 5(c). It would be in order to seize any item, for example, an air horn, that could be used to contravene the order of the court. I - just to....

THE COURT: Well, I know that. But I don't think we can - I'm not going to give that kind of order.

MS. STEWART: Thank you.

25 MR. WILSON: Just to confirm, My Lord, we're talking about factory-installed equipment. I don't....

30 THE COURT: No, no, I'm not - we're not getting there. The issue is whether using it. Okay. You can have it. There's nothing to prevent you from having it. You just can't use it. Because then it gets into a whole more - whole larger issue, and that is the requirement under the *Highway*

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Traffic Act to have them. And it the - and you know, and there - you get into the issue of liability exactly. If they move their vehicle for some reason, and they're enjoined from using it, and some child runs in front of the road - in front of them, they have to use it. There's no question about that.

MR. WILSON: In fact, sir, if it was removed, they wouldn't be able to move.

10
THE COURT: Well, that's what I mean. Like, it'd be - you know, we - I - it would cause a whole problem. And that's - the - the issue, as I said before, it's not the thing, it's the person. You know, it's not the thing, it's the person. So, I can't - I don't agree with (c).

15
I'm trying not to mess this thing up. 'Cause I've got a real - release the person. Okay, the issue becomes how - so, what? They're gonna give them a promise to appear to a date to be fixed by the court? Is that, I guess, what that means in 6(d)? 'Cause they can't fix the date of the hearing.

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MR. CHAMP: I'll - I'll defer to Ms. Stewart on that.

25
MS. STEWART: It indicates, "Require that a person appear before this court at such as may be directed by this court on date to be fixed by this court". As I understand it, we already have a next date anticipated.

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THE COURT: No. No, no, no, no.

MS. STEWART: No? Okay.

THE COURT: You don't have it for that.

a criminal manner.

5 THE COURT: No, no, no, I know that. It's not -
there's no - there's no issue about that. But
what I'm saying is, the modality of getting a date
from this court is not sort of, well, you pick a
date and say, well, you get to go before the judge
and that. That doesn't work that way. You - you
- what you have to do is, you have to - I don't
10 know how you would do it because it's - it's - we
have a different - you know, you're - you're not -
as I say, next - the 16th is not gonna be a day
where I hear contempt motions or contempt
proceedings. That's not it. They're gonna be
separate from that all together.

15 MS. STEWART: No. And - and I wasn't suggesting
that that would be a date where, you know, if
police exercise their discretion, and if they
arrest someone who is breaching a - and if someone
does breach the court order that they would come
20 back on that date to - for the court to hear a
contempt motion, but I - I think it's to just
attend and present themselves in front of the
court.

25 THE COURT: Yeah, but you see, we don't have fixed
dates. We just...

MS. STEWART: *[Indiscernible...multiple speakers
at the same time, unable to decipher words
spoken]*. Sorry.

30 THE COURT: You see, generally speaking, the way
it works is, civil contempt - and you know, you
both - the other lawyers will, I think, agree with
me, is a function of a judge alone. It - it

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doesn't have to do with - you know, generally speaking, the criminal process, you get a date from the Provincial Court, et cetera, et cetera, and you show up there to set - and they sit regular dates. Because it's a function of the Superior Court, we don't do it that way. Whether we should is another issue, but it's not for today to discuss. You have to bring the person before the court for the court to fix the date.

10
MS. STEWART: Okay.

THE COURT: And then you have to do it, but that - this is where I'm getting a little concerned about this because, you know, what do you do? You arrest somebody, you say, well, you know, we're gonna take you to the court, you find out there's no judge available.

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MS. STEWART: Right. So, the perspective of the police is that the police were bring the - any arrested protestor before the court, after the arrest, and the court would then speak to the protestor and set the date for the civil contempt proceeding. And at that point in the, you know, usual course, an individual is released unless they, you know - they don't agree on the spot to stop prohibited activity.

20
THE COURT: Well, it's not quite simple as that.

MR. WILSON: It's not at all.

THE COURT: You know, it doesn't work that way.

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MR. CHAMP: Your Honour, if I could just jump in....

30
THE COURT: Yeah, go ahead.

MR. CHAMP: *[Indiscernible...multiple speakers at*

the same time, unable to decipher words spoken].

THE COURT: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].*

5 MR. CHAMP: I'm fine with that - I'm fine with that provision being removed. I don't think it's - I mean, the police can do what they wish, as - in terms of how they enforce. I don't think they need specific language directing. And I agree - I - I - I actually tend to agree with you. I think having an order in there about the time is - is probably not - not the way to do it. It's not quite the same as a criminal offence in that sense.

10 THE COURT: Well, how do you suggest we get around that then, having suggested that?

15 MR. CHAMP: Well....

THE COURT: Because you see, the - you see, I don't want to get into a situation where we're - we're into a situation whereby the police have the power to simply arrest somebody, because that's not the - the sole reason that would occur is - is because that - they have to bring them before this court.

20 MR. CHAMP: Yeah, Your Honour, I would submit that it simply - for - so, we're talking about Section 6 here, it could - all of those provisions could be removed except for the (a), and the (a) could just be brought in saying,

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30 This court orders that any peace officer or any member of the police, who arrests or - and arrests or removes any person pursuant to this order shall have authorization to

release that person from arrest upon that
person agreeing in writing to obey this
order. [As Read]

5 I think - I think that would achieve really, what
we're trying to get at. I'm not sure if the rest
of the language is necessary, but I'll defer...

THE COURT: Mr. Wilson?

MR. CHAMP: ...I'll defer.

10 THE COURT: That's fair.

MR. WILSON: Which section were you looking at?

THE COURT: It's 6. The - 6 is excised except for
(a).

15 Court orders that any peace officer who
arrests or - arrests or arrests and removes
any person pursuant to this order shall be
authorized to release the person from arrest
upon that person agreeing to - in writing, to
obey this order. [As Read]

20 Period. That's the end of it.

MR. WILSON: I'm fine with that, sir.

THE COURT: All right. So, that's how 6 will be
worded.

25 MR. CHAMP: The next one's about third parties,
when requested by the police - Mr. - counsel for
the responding parties is opposed to that one. We
- we don't have a big concern one way or the
other. We'll just defer...

30 THE COURT: No, that will....

MR. CHAMP: ...we defer to the Ottawa Police.

THE COURT: That will come out.

5

MR. CHAMP: Okay.

THE COURT: Of course, 8 stays in. That's fine.

MR. CHAMP: And then....

THE COURT: Notice....

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MR. CHAMP: So, the last bit I guess, we're just down to how we get it out. We're saying, "notice of this order" - well, there's two last things. Notice of this order may be given by - and we're suggesting posting copies of this order in or around, including by, et cetera. So, that's - that's how we're suggesting.

15

And then, the last issue is about whether they can still blast their horns for five minutes. I - I think that would be a problematic one.

THE COURT: Well, the other.

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MR. WILSON: Sir, if I [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*].

25

THE COURT: Okay. Just with regard to the notice. Let's do this once - you know, so we can - you can have a joint order - or an order [*Indiscernible...multiple speakers at the same time, unable to decipher words spoken*] form for me to sign.

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The - I think should be added to that that a copy - true copy of the order be granted to all - to be given to all news media in the Ottawa area and request that they publish it.

MR. CHAMP: I'm fine with that, Your Honour. Who should be responsible for that?

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THE COURT: You. You are.

MR. CHAMP: Yeah, that's fine. I'm just confirming. Yeah.

THE COURT: No, no, I'm just telling you. You are. It's your order.

Ten is fine.

Eleven: costs. The costs will be in the cause. I'm not ordering costs at this point. Okay.

MR. CHAMP: As I understand it, I think they agreed to costs.

MR. WILSON: No, that's not true. No. I reserved *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]*.

THE COURT: Well, costs - costs are going to be in the cause. And the problem I've got is, you know, enforcing them. And I'm not getting into there. We could do that later. Okay.

MR. CHAMP: But Your Honour, it was just about the cost to the three parties who - I haven't actually made submission on costs 'cause you asked us to wait, but they - the - the three responding parties chose to respond to this - they didn't have to - even though they don't honk.

And I'd also note, Your Honour, you can take a look at those affidavits. You've already indicated that, you know, much of them have information or evidence that's - that's irrelevant. We had to work very hard to sort of, like, respond to all...

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THE COURT: Well, that's fine.

MR. CHAMP: ...these issues by Mr. Wilson. So, I
- I think it is appropriate, in this particular
instance. I think normally, you know, I agree
cost. But in this particular instance, I think
costs are appropriate. Perhaps on partial
indemnity and we can try to agree and if we don't
agree, we come back to the court.

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THE COURT: No, costs will be in the cause. Thank
you.

And the matter will be adjourned to the 16th of
February, next, at ten in the morning.

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MR. CHAMP: Your Honour, I'm just confirming,
we're not allowing them to blow their horns for
five minutes a day, are we?

THE COURT: No.

MR. CHAMP: No. That's what I thought. Thank
you.

20

THE COURT: Okay.

MR. CHAMP: Thanks very much, Your Honour.

25

THE COURT: Is there any other part of the other -
and the order will be effected [*sic*] immediately -
effective immediately. Because there is a - a
provision in it that nothing will happen unless
the people have notice of it. So, that's the -
the enforcing authority has to be aware of that.
Okay.

MR. CHAMP: Thank you, Your Honour.

30

MR. WILSON: Your Honour, I just - I know you've
just been clear, but you've been clear without the
benefit of me commenting and

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

THE COURT: Okay, that's fine. I'm sorry. All right. Sorry.

MR. WILSON: You know, we're trying to balance rights and we're all struggling with that to try and get the balance right. And you're - you - you are in the envied position of the - the great decider, and respect that.

THE COURT: Don't say that that is an envied position.

MR. WILSON: I understand, sir.

THE COURT: That is an assumption without basis. Anyway, go ahead.

MR. WILSON: That - that - you know, we're - rather than just flipping this to one party or the other, we're suggesting that the compromise, and sort of the balancing the right could be achieved if there was a specific time window, once a day. And what we had proposed was - was 5:00 p.m.

because that's a high traffic time

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]....

THE COURT: Well, that's - that's - that's - yeah, I appreciate that. But as I said when I gave you reasons earlier, the only purpose for this is to bring attention to the protest. And as I said earlier, in my view, from the material that have been filed, there is no need for that anymore.

There is - the public has full comprehension of what's going on downtown Ottawa.

So, it will be effective immediately and there will be no provision for any time where honking can continue. All right?

MR. WILSON: Thank you, sir.

THE COURT: Thank you.

MR. CHAMP: And Your Honour, I apologize. Just one last thing. On media, is it okay if I specify which media to you right now? 'Cause I'm just - 'cause it's kind of generalized right now.

THE COURT: Okay.

MR. CHAMP: *[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]* media.

I'm gonna suggest like local media in the Ottawa area. So, CBC, CTV, Ottawa Citizen, Ottawa Sun, and Global news. I can't...

THE COURT: And....

MR. CHAMP: ...think of any - if you have any other suggestions, I'm happy to add them.

THE COURT: Oh, I'm just wondering if there's a way to put it in the French media.

MR. CHAMP: Yeah, that's a good idea. Yeah. So, Radio - Radio Canada.

THE COURT: Yes.

MR. CHAMP: And beyond that, I'm just - I'm not familiar with the other French media outlets in Ottawa.

THE COURT: Oh, I don't know, but it should be. Like, it's - it's a situation where everybody - every way possible, should be used to do it.

MR. CHAMP: How about every daily newspaper in the

Ottawa area?

THE COURT: Yeah, that's fine.

MR. CHAMP: That would cover the....

THE COURT: That's fine. I think. Mr. Wilson,
that's agreeable?

MR. WILSON: *[Indiscernible...multiple speakers at
the same time, unable to decipher words spoken].*

Sir, what I hear you saying is, use reasonable
efforts.

THE COURT: Yeah, use reasonable efforts. But I'm
just saying, it - it should be both in the media
that's in the French language as well as the - and
I - now, don't look at me to translate it into an
order that's even partially bilingual. So. But
anyway.

MR. CHAMP: *[Indiscernible...ZOOM interference on
channel, audio is distorted].*

THE COURT: Any - no, I'm sorry. Ms. Stewart, do
you have any comments on this? I should have
asked earlier.

MS. STEWART: Thank you. Thank you, Your Honour.
Not with respect to anything - and I - and I think
I had already spoken to this, but, you know, from
the Ottawa Police Services' position, we would
have expected that the arrested individuals go
before the Superior Court of the Province. And
unless the order allowed the arrestees to be
released upon a civil promise appear at a date set
by your court registry, which the police would
call ahead to get a date.

So, I just wanted to put that on the record. I

know Your Honour has made your decision.

[Indiscernible...multiple speakers at the same time, unable to decipher words spoken]....

5 THE COURT: Well, no, it's - it's - you see, the point of the whole thing is, they're going to - what they will have to do - and you know, the lawyers can deal with this. What they'll have to do is, if they don't sign an undertaking to comply with the order then you're gonna have to get them to the Superior Court and do that. You know. That's - that's - that's the way - contempt is not a - shall we say, a delicate instrument. You know. And so, you'll have to get them to the Superior Court. And I'm sure you can talk to the local registry and figure that out if - if it happens. But, you know, I don't know what else to say.

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20 Because I can't - contempt is a matter that depends a) on the individual, depends on what the harms done, depends on all kinds of things. And so - but it's up to the judge to - you see, I don't think I'm - I'm treading on any ground. If the person says, "Okay, I'm sorry. I will obey the order. Here's my undertaking to do it", then I don't think there's any reason to bring that person before the court because the issue is whether the order's complied with. And you get into all kinds of business about notice and that kind of stuff too.

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30 Because clearly, if the person has no notice,

5 there's no contempt. There can't be. But you know, if they agree to comply with it, then that's fine. Otherwise, I think, you know, you're gonna have to get it before the court. But you can talk to these lawyers and they can tell you about that. You know.

10 Okay. Is there anything else we need to discuss?
MR. CHAMP: I don't think so, Your Honour. The only thing would be is, once we - I think I've made notes of all the changes you've recommend - that you've....

15 THE COURT: Well, I'll - I will - I am not going any place. So, I'll just mute myself and turn my - and so, if there's any problems, then you can come back to me.

20 If not, then simply give the registrar a copy of the order agreed to, and content the form and I'll sign it. Okay?

MR. CHAMP: Thank you very much, Your Honour.

THE COURT: And the other thing - the other thing is, put "Mr." in front of Justice too.

25 MR. CHAMP: That's fine, Your Honour. And if it's okay, if we can not go through the normal of *[indiscernible...ZOOM interference on channel, audio is distorted]* content, just if I - if I e-mail the registrar with an order and copy Mr. Wilson, is that sufficient?

30 THE COURT: Well, whatever you - however you want to do...

MR. CHAMP: Okay, thank you.

5

THE COURT: ...just to make sure that both of you are agreed to the form of the order - ...

MR. CHAMP: One hundred percent. Yeah.

THE COURT: ...well, I guess the three of you.

MR. CHAMP: Yeah.

THE COURT: I don't know whether....

MR. CHAMP: That's fine.

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THE COURT: You know. And however you want to do it, as long as it's done that way, I'm not concerned about it. But I'll be on - around line...

MR. CHAMP: Okay.

THE COURT: ...as they say. All right?

MR. CHAMP: Thank you very much, Your Honour.

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THE COURT: Thank you. Take care.

MR. WILSON: Thank you, sir. Thank you, counsel.

R E C E S S (4:03 p.m.)

U P O N R E S U M I N G (5:06 p.m.)

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THE COURT: All right. So, how are we?

MR. CHAMP: Your Honour, I believe we have an agreement. Or, not I believe, we have an agreement and we're - we've sent the version to the court: to the registry and to Ms. McKinley (ph). And I think that's it.

25

It would just be, we'd ask, when you do get it, Your Honour, if you could sign and return to us.

30

THE COURT: Well, I'll return it to the registrar.

MR. CHAMP: I'd ask the registrar to send a PDF or scan it to the parties at their earliest - or as

soon as they can.

THE COURT: All right. Well, if you just wait,
I'll see when I get it...

MR. CHAMP: Yeah.

THE COURT: .if I can sign it right away.

MR. CHAMP: Thank you, Your Honour.

... PAUSE

THE COURT: Haven't got it yet. We'll see.
'Cause I can sign it, I think, quickly. If I
know....

... PHONE RINGING IN BACKGROUND

MR. WILSON: *[Indiscernible...ZOOM interference on
channel, audio is distorted]* don't want to do
that, what trick we just discovered of sending it
a second time.

MR. CHAMP: Oh, my gosh. Okay.

MR. WILSON: I'm forwarding from your sent folder
'cause that seemed to speed it up for me, sir.

THE COURT: Okay.

MR. CHAMP: SJ courts - Eva (ph) - Vanessa Stewart
- okay. On it's way again.

... PAUSE

THE COURT: *[Indiscernible...ZOOM interference on
channel, audio is distorted]* Mr. Registrar, I just
don't know whether it went to Ms. McKinley. And I
don't know whether she's around. That's the....

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MR. CHAMP: I sent it to - yeah, I can send it to the registrar as well. I used the - hold on. Mr. - Mr. Carter. No. Hold on.

THE COURT: Carlson.

MR. CHAMP: Got it.

THE COURT: I think it may have gone to Ms. McKinley, and that....

MR. CHAMP: It went to McKinley and also the registrar. But I'll get....

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THE COURT: Yeah, sent it to the registrar just straight. And then....

MR. CHAMP: Yes. Sorry, Mr. Carlson.

THE COURT: It's all right.

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CLERK REGISTRAR: For some reason though, it - when we're in the courtrooms it takes longer.

THE COURT: Oh, okay.

... PAUSE

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THE COURT: The marvel's of modern technology.

MR. CHAMP: I'm so sleep deprived right now.

THE COURT: I can under - I think - I can understand that.

CLERK REGISTRAR: Okay. I now have it.

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THE COURT: Okay. You send it to me. I'll PDF it and sign it.

MR. WILSON: And just so you're clear, sir, I have - I have reviewed it and I've worked with my friends to resolve any differences

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[Indiscernible...multiple speakers at the same time, unable to decipher words spoken].

THE COURT: *[Indiscernible...multiple speakers at*

the same time, unable to decipher words spoken].

MR. WILSON: ...cooperative and [*indiscernible*].

THE COURT: That's fine. No, I appreciate that you....Okay.

MR. CHAMP: Your Honour, I think - I just note, we didn't paginate it. I'm so sorry. It's two pages and it's not paginated. I'm gonna - I'll see if I can do that and resend it to Mr. Carter.

CLERK REGISTRAR: Carlson.

MR. CHAMP: Carlson.

THE COURT: Carlson.

MR. CHAMP: I'm so sorry. Insert page number - I'm not even....

Meanwhile, Your Honour, maybe you could just take a look to make sure that you don't have any concerns.

THE COURT: Yeah, well you'd better take our "draft order"

MR. CHAMP: Oh, yeah. Oh, yeah, you're right. Well, there we go. Good thing. Order.

THE COURT: Yeah, take out "draft order" and let's see what else.

MR. CHAMP: Okay, I've got the pen right now. So, if there's any other issues. I've taken out draft order and I've paginated.

THE COURT: Put - put Mr. Justice in from of McLean.

MR. CHAMP: Okay. I'm sorry, I know you told us that. I apologize.

THE COURT: It's all right. It's just - I guess I'm getting older.

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MR. CHAMP: Oh, it doesn't have Mr. Justice McLean.

THE COURT: We'll, maybe I've got the wrong one then. It - the one I've got is just Justice McLean, draft order. So, maybe I....

MR. CHAMP: What's the - the - so the - the document is called "Li Interim Order CV-22-" that's the one. Unless I sent the - did I - hold on - did I send the wrong one to Mr. Carlson?

THE COURT: You might have.

MR. CHAMP: No, I didn't. No, I sent him the right one.

THE COURT: Okay.

MR. CHAMP: Li - Li - let me. I'm gonna open the one I sent him just to make sure.

THE COURT: Oh, I got draft order. I'm sorry, the one I - the one that's attached to Carlson is one that - Mr. Carlson is draft order.

MR. CHAMP: Yeah. Yeah, I've got Mr. Justice McLean in the one...

THE COURT: Okay.

MR. CHAMP: ...that I sent to Mr. Carlson.

THE COURT: Okay. Well, I'm trying to find it. Li Interim Order, is that the one?

MR. CHAMP: That's it.

THE COURT: Okay. There you go. Okay, that's fine. You - you've gotta take out "draft order".

MR. CHAMP: Yeah, I've taken out "draft order". I've paginated it. And I'll just - if you want....

THE COURT: Send it again. Send it again and then sign it.

MR. CHAMP: Well, is there - is there any other
issues there, Your Honour?

5 Oh, yeah, 10:00 a.m., we put - for February the
16th, the returnable time we put at 10:00 a.m., is
that fine?

THE COURT: That's fine.

MR. CHAMP: Okay, great. I'll send it right now.

THE COURT: That's fine.

10 ... PAUSE

MR. CHAMP: [phone ringing] Paul Champ.

15 ... PAUSE

MR. CHAMP: So, is that good, Your Honour?

THE COURT: I'm trying to find it. I've got so
many e-mail now. It's buried in the
20 electronic....

CLERK REGISTRAR: Your Honour?

THE COURT: Yes?

CLERK REGISTRAR: I just got the latest version
from Mr. Champ now. So, I can....

25 THE COURT: Okay. Can you just send it as a
separate - separate....

CLERK REGISTRAR: Yeah.

THE COURT: Because I'm - I'm lost in an e-mail
chain.

30 ... PAUSE

CLERK REGISTRAR: The only thing you'll get is the attachment. Nothing - none - none of the rest of the chain.

THE COURT: That's fine. That's what I want.

Still got "draft order" on it though. The one I've got.

CLERK REGISTRAR: Then you're looking at the wrong one. The one I sent has - just has "order".

THE COURT: Okay, well, just let me see.

... PAUSE

THE COURT: Oh, for glory sake. Well, you're gonna have to send it again, because the one I've got has draft order still on it.

MR. CHAMP: So, is that good, Your Honour?

THE COURT: Yes. Well...

MR. CHAMP: Okay.

THE COURT: ...I've got to get it. I haven't got it yet.

MR. CHAMP: Well, we've all agreed on it. Is it okay, Your Honour, if we - we adjourn the hearing?

THE COURT: Yes.

MR. CHAMP: Okay.

THE COURT: Yes, if you trust me, you can - we'll adjourn the hearing.

MR. CHAMP: I think I trust you.

THE COURT: All right. Well, don't be so sure. But anyways.

MR. CHAMP: Okay. Thank you.

THE COURT: All right, thank you very much to

counsel. I appreciated your help.

MR. CHAMP: Thank you, Your Honour.

MS. STEWART: Thank you.

THE COURT: All right, thank you.

Matter is adjourned.

... MATTER ADJOURNED TO FEBRUARY 16, 2022

(5:15 p.m.)

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Certification

FORM 2

CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

5

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February 23, 2022

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ZEXI LI. ET AL.
PLAINTIFFS

-and-

CHRIS BARBER ET AL.
DEFENDANTS

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT OTTAWA

SUPPLEMENTAL MOTION RECORD
VOLUME 2 of 2
(Pursuant to section 137.1(3) of the CJA)

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