



Court File No. **VLC-S-S-198861**

No.  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**BIG LAKE LOGGING LTD.**

**PLAINTIFF**

**AND:**

**UNITED STEEL, PAPER AND FORESTRY, RUBBER,  
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND  
SERVICE WORKERS INTERNATIONAL UNION, LOCAL 1-1937**

**DEFENDANT**

**NOTICE OF CIVIL CLAIM**

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

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

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

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

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

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

**Time for response to civil claim**

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

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

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

### **CLAIM OF THE PLAINTIFF(S)**

#### **PART 1: STATEMENT OF FACTS**

##### **THE PARTIES**

##### **Big Lake Logging Ltd.**

1. Big Lake Logging Ltd. (the "Plaintiff") is a company involved in various aspects of timber harvesting work in a woodlands area designated by the Government of British Columbia as Tree Farm License 44 ("TFL 44") and which is located near Port Alberni, B.C.
2. From January 24, 1955 to approximately March 2019, Western Forest Products Inc. ("Western") (or its predecessors) maintained the exclusive right to conduct timber harvesting work in TFL 44, and since August 27, 2002 has contracted out such work in TFL 44 to a variety of different contractors.
3. On January 1, 2018, Western contracted out the timber harvesting and timber hauling work on TFL 44 to the Plaintiff as well as four other companies: Island Forest Company Ltd. ("Island"), Star Contracting Ltd. ("Star"), Mount Sicker Timber Company Ltd. ("Mount Sicker") and Twin City Holdings Ltd. ("Twin City") (collectively, the "Employers").
4. From January 1, 2018 to approximately March 2019, the Employers continued to perform this work on behalf of Western.
5. In or around March 2019, Western assigned its harvesting rights in TFL 44 to TFL 44 LP.
6. TFL 44 LP was formed in or around January 2019 and is a limited partnership that is owned, 93% by Western and 7% by the Huu-ay-aht First Nations.
7. In or around March 2019, Western also assigned its contract with the Plaintiff to TFL 44 LP, such that the work performed by the Plaintiff is now performed on behalf of TFL 44 LP.
8. Since that time, the Plaintiff, and the rest of the Employers, have performed timber harvesting and timber hauling work in TFL 44 on behalf of TFL 44 LP.

##### **The USW, Local 1-1937**

9. The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-1937 (the "Union") has been voluntarily recognized and/or certified as the bargaining agent for approximately 6,000

employees primarily involved in all aspects of the forestry industry on Vancouver Island, coastal islands including Haida Gwaii and the mainland coast of British Columbia.

10. The Union is the bargaining agent for the Plaintiff's bargaining unit employees.

#### **COAST MASTER AGREEMENT**

11. The Plaintiff, as well as the Employers, are party to collective agreements with the Union covering their unionized operations, with a term from June 15, 2014 to June 14, 2019 (the "Coast Master Agreement").
12. With few exceptions unionized employers in the B.C. coastal forestry industry are party to the Coast Master Agreement, or a variant thereof.
13. Historically, the Coast Master Agreement was negotiated between the Union (or its predecessors) and Forest Industrial Relations ("FIR"), an employer bargaining agent.
14. Employers in the coastal forestry industry in B.C. would become party to the Coast Master Agreement either as a result of their membership in FIR or by entering into agreements with the Union (or its predecessors) to abide by the results of the negotiations with FIR, known as "Me Too" Agreements.
15. However, starting in or around 2005, most major forestry companies started to bring their relationship with FIR to an end.
16. Since that time and by virtue of being the largest forestry company in the B.C. coastal forestry industry, Western has become the *de facto* lead negotiator for many of the employers in the B.C. coastal forestry industry, with many companies entering into "Me Too" Agreements where they agree to abide by the results of the negotiations between Western and the Union. The Western Collective Agreement has the same term from June 15, 2014 to June 14, 2019 and is similar to the Coast Master Agreement.
17. It is not mandatory for any employer to sign a "Me Too" Agreement.
18. Employers are at liberty to refuse to sign a "Me Too" Agreement and to engage in bargaining directly with the Union, and the Union is obligated to bargain directly with those employers.

#### **BARGAINING, STRIKE, DECISION AND DAMAGES**

##### **Bargaining**

19. On March 15, 2019, the Union provided the Employers with notice to commence bargaining. In this notice, the Union invited the Employers to enter into a "Me Too" Agreement or to enter into negotiation for a separate collective agreement.
20. On March 19, 2019, Twin City signed the "Me Too" Agreement.
21. On April 10, 2019, Star signed the "Me Too" Agreement.
22. On April 29, 2019, the Employers provided TFL 44 LP with authority to act as their bargaining spokesperson for the current round of collective bargaining and sent a letter

to the Union to that effect. On the same date, Star and Twin city also advised the Union that they were withdrawing from the "Me Too" Agreements.

23. In or around May 8, 2019, TFL 44 LP advised the Union that it had been authorized by the Employers to be their bargaining spokesperson for the current round of collective bargaining.
24. On May 13, 2019 and on behalf of the Employers, TFL 44 LP wrote to the Union indicating that it had been authorized by the Employers to be their bargaining spokesperson for the current round of collective bargaining.
25. On May 27, 2019, the Union:
  - (a) wrote to the Plaintiff, Island and Mount Sicker, and indicated that it did not recognize TFL 44 LP as a bargaining agent for the Employer and that it would not bargain with the Employers in a group and requested that the Plaintiff, Island and Mount Sicker sign a "Me Too" Agreement or bargain independently for a collective agreement; and
  - (b) wrote to Star and Twin City and advised that the "Me Too" Agreements could not be rescinded and that they were bound by that agreement.
26. On May 31, 2019 and on behalf of the Employers, TFL 44 LP wrote to the Union and asked that the Union contact it on behalf of the Employers for any matter relating to bargaining.
27. On June 3, 2019, the Union responded to the May 31, 2019 letter from TFL 44 LP and stated that:
  - (a) Star and Twin City had signed and could not rescind the "Me Too" Agreements; and
  - (b) it would not recognize TFL 44 LP as the bargaining spokesperson for the Plaintiff, Island and Mount Sicker.
28. On June 6, 2019, the Union wrote to the Plaintiff, Island and Mount Sicker and advised them that if they did not bargain with the Union or sign the "Me Too" Agreement by June 14, 2019 at 4:30pm, they would be deemed to have signed the "Me Too" Agreement.
29. The Plaintiff, Island and Mount Sicker did not sign "Me Too" Agreements and on June 14, 2019 at 4:30pm were deemed by the Union to have signed "Me Too" Agreements.

#### **Strike Vote and Strike at TFL 44**

30. Between June 10 and June 26, 2019, the Union conducted a strike vote of employees of Western, and employees of all contractors performing work for or on behalf of Western and TFL 44 LP, including employees of the Plaintiff.
31. On June 28, 2019 at approximately 3:45pm, the Union served 72-hour strike notice on the Plaintiff.

32. On or before June 28, 2019, members of the Union's Executive Board participated in one or more conversations, the purpose of such conversations being to discuss, agree to and plan strike action as against the Plaintiff.
33. The Union knew or ought reasonably to have known:
  - (a) that the Union had no basis to refuse to recognize TFL 44 LP as the bargaining representative for the Plaintiff;
  - (b) that the Union had not bargained collectively with the Plaintiff;
  - (c) that the Union had no authority to "deem" the Plaintiff to have agreed to the "Me Too" Agreement;
  - (d) that taking a strike vote and taking strike action as against the Plaintiff was unlawful and in particular, that it was contrary to the terms of the *Code*;
  - (e) that the Plaintiff has a commercial contract with TFL 44 LP;
  - (f) that strike action would, or would likely, cause injury to the Plaintiff; and
  - (g) that strike action would, or would likely, harm the Plaintiff's economic interests by forcing the Plaintiff to cease its operations for the duration of the strike action, by inhibiting the Plaintiff's ability to fulfil its contracts with TFL 44 LP and by forcing the Plaintiff to breach its contracts with TFL 44 LP.
34. In fact, the predominant purpose of the strike action was to cause such injury to the Plaintiff as described in paragraph 45 (a) to (d) of Part 1 of this Notice of Civil Claim.
35. On or before July 1, 2019, the Union directly or indirectly contacted employees of the Plaintiff and directed or compelled them, whether through force, intimidation, persuasion or otherwise, to participate in strike action as against the Plaintiff.
36. As a result of such actions as described in paragraph 35 of Part 1 of this Notice of Civil Claim, employees of the Plaintiff did in fact agree to participate in strike action as against the Plaintiff.
37. On July 1, 2019 at approximately 4:00pm, the Union commenced strike action as against the Plaintiff and the Plaintiff's employees accordingly went on strike.
38. The Union's strike action included, among other things, picketing at the Plaintiff's operations which resulted in disruption of the Plaintiff's operation and interference in the performance of its contractual obligations to TFL 44 LP.

#### **Decision of the B.C. Labour Relations Board**

39. On July 2, 2019, the Plaintiff, with others, applied to the British Columbia Labour Relations Board (the "Board") pursuant to Part 5 of the *Labour Relations Code*, R.S.B.C. 1996, c. 244 (the "*Code*") for an order that the Union had engaged, and continued to engage, in an illegal strike at its operations in contravention of the *Code*.
40. This application was heard by a Vice-Chair of the Board on July 4 and 5, 2019.

41. On July 11, 2019, the Vice-Chair of the Board issued his decision in respect of this application: *Star Contracting Ltd., Twin City Holdings Ltd., Island Forest Company Ltd., Big Lake Logging Ltd., and Mount Sicker Timber Company Ltd. -and- United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-1937*, BCLRB No. B91/2019 (the "Decision").
42. In the Decision, the Vice-Chair held the Union's strike action as against, among others, the Plaintiff to be unlawful.
43. On or about July 16, 2019, the Plaintiff recommenced its operations in TFL 44.
44. On July 24, 2019, and pursuant to s. 135 of the Code, the Board filed the Decision with the Supreme Court of British Columbia, Vancouver Registry where it is enforceable as an order of that Court (the "Order"). The Order is registered under Registry file number L190289.

#### **Injury Experienced by the Plaintiff**

45. As a result of the unlawful actions of the Union as set out in paragraphs 29 to 38 of Part 1 of this Notice of Civil Claim, the Plaintiff was:
  - (a) forced to shut down its operations from July 1, 2019 to on or about July 16, 2019;
  - (b) unable to generate revenue from July 1, 2019 to on or about July 16, 2019;
  - (c) inhibited in its ability to fulfill its contractual obligations to TFL 44 LP; and
  - (d) forced to breach its contractual obligations to TFL 44 LP.
46. At present, the Plaintiff estimates that as a result of the unlawful actions of the Union, as set out in paragraphs 29 to 38 of Part 1 of this Notice of Civil Claim, its losses due to the interruption of its business exceeds \$250,000.
47. As a further result of the actions of unlawful actions of the Union, as set out in paragraphs 29 to 38 of Part 1 of this Notice of Civil Claim, the Plaintiff has suffered additional losses and damages, including to its business, goodwill and contractual relationships and has suffered financial losses which damages and losses are not fully known or quantifiable and has incurred costs and expenses, including costs and expenses incurred in connection with obtaining the Order from the Board and the subsequent filing of that Order with the Supreme Court of British Columbia.

#### **PART 2: RELIEF SOUGHT**

1. The Plaintiff seeks the following relief:
  - (a) Damages for conduct contravening Part 5 of *the Labour Relations Code*, R.S.B.C. 1996, c. 244;
  - (b) General damages for unlawful interference with economic relations;
  - (c) General damages for conspiracy;

- (d) Special damages;
- (e) Aggravated and punitive damages;
- (f) Costs;
- (g) Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- (h) Such further and other relied as this Honourable Court may deem just.

### **PART 3: LEGAL BASIS**

#### **BREACH OF PART 5 OF THE CODE**

1. The Labour Relations Board, in the Decision, found that the Union breached Part 5 of the Code by engaging in an illegal strike against the Plaintiff.
2. Section 135 of the Code provides:

##### **Filing order in Supreme Court**

135 (1) The board must on request by any party or may on its own motion file in a Supreme Court registry at any time a copy of a decision or order made by the board under this Code or a collective agreement.

(2) The decision or order must be filed as if it were an order of the court, and on being filed it is deemed for all purposes except appeal from it to be an order of the Supreme Court and enforceable as such.

(3) For the purposes of this section, a designation or direction under Part 6 is deemed to be a decision or order of the board.

3. Section 137 (4) of the Code provides:

(4) A court of competent jurisdiction may award damages for injury or losses suffered as a consequence of conduct contravening Part 5 if the board has first determined that there has been a contravention of Part 5.

#### **UNLAWFUL INTERFERENCE WITH ECONOMIC RELATIONS**

4. By the actions as described in Part 1 of this Notice of Civil Claim, the Union unlawfully interfered in the economic relations of the Plaintiff with TFL 44 LP.
5. In particular, the Union:
  - (a) intended to cause harm to the Plaintiff's economic interests;
  - (b) did so by interfering with the Plaintiff's ability to conduct its operations and fulfil its contractual obligations; and
  - (c) caused damage to the Plaintiff's economic interests.

6. As a result of these tortious acts, the Plaintiff has and continues to suffer damages.

#### **CONSPIRACY**

7. In addition and in the alternative, by the actions as described in Part 1 of this Notice of Civil Claim, the Union participated in a conspiracy that was designed to, and which in fact did, cause injury to the Plaintiff.
8. In particular, the Union conspired to use unlawful means for the predominant purpose of causing injury to the Plaintiff and which did in fact cause injury to the Plaintiff or which they knew or ought to have known would cause injury to the Plaintiff and which did in fact result.
9. By engaging in such actions, the Union participated in an unlawful conspiracy.
10. As a result of these tortious acts, the Plaintiff has and continues to suffer damages.

#### **AGGRAVATED AND PUNITIVE DAMAGES**

11. The actions of the Union as described in Part 1 of this Notice of Civil Claim:
- (a) consist of several independent actionable wrongs;
  - (b) are malicious, oppressive and high-handed, harmful and unlawful; and
  - (c) offend society's sense of decency and this Honourable Court's sense of decency.
12. An award of punitive damages is necessary and appropriate to achieve the goal of punishment and deterrence.
13. The Plaintiff also seeks an award of aggravated damages.



Plaintiff's address for service:

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

Fax number address for service (if any): 604-806-0933

Email address for service (if any): gheywood@ropergreyell.com

Place of trial: Vancouver, B.C.

The address of the registry is: Vancouver Law Courts  
800 Smith Street  
Vancouver, BC V6Z 2E1

Date: August 12, 2019

  
\_\_\_\_\_  
Signature of Lawyer for the Plaintiff  
for Gregory J. Heywood

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

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

**APPENDIX**

**PART 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

Claim for damages and injunctive relief arising from tortious picketing activities.

**PART 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

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

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

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

**PART 3: THIS CLAIM INVOLVES:**

[Check all boxes below that apply to this case]

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

**PART 4:**

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

1. *Labour Relations Code*, R.S.B.C. 1996, c. 244
2. *Court Order Interest Act*, RSBC 1996, c 79