



Court File No. **VLC-S-S-201352**

No.:
Vancouver Registry

In the Supreme Court of British Columbia

ETWEEN:

HOUSIEN MEHAIDLE

Plaintiff

- and -

FASTENAL CANADA, LTD. / FASTENAL CANADA, LTEE

Defendant

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

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

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

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

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

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

Time for response to civil claim

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

- (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.

Part 1: STATEMENT OF FACTS

The Parties

1. The plaintiff, Housien Mehaide (“Housien” or the “Plaintiff”), is a twenty-seven (27) year-old resident of the City of Burnaby, in the Province of British Columbia. The Plaintiff has an address for service care of Samfiru Tumarkin LLP, at 580 Hornby Street, Suite 520, Vancouver, BC, V6C 3B6.
2. The defendant, Fastenal Canada, Ltd. / Fastenal Canada, Ltee (the “Defendant”), is an international industrial and construction supply distributor. The Defendant has an address for service care of Miller Thomson LLP, at Pacific Centre, 400 – 725 Granville Street, Vancouver, BC, V7Y 1G5.
3. Housien was employed with the Defendant for approximately six-and-a-half (6.5) years, until December 30, 2019, at which time his employment was wrongfully terminated without cause or reasonable notice.

Background of the Plaintiff’s Employment

4. At the time of his termination, Housien was employed by the Defendant as a General Manager. Commensurate with his managerial position, Housien received the following remuneration:
 - (a) Average annual earnings of \$68,000.00, comprised of a base salary and commission;
 - (b) Enrollment in the Defendant’s comprehensive benefits plan (including its health benefits program); and
 - (c) Three (3) weeks’ paid vacation.
5. During his tenure with the Defendant, Housien was promoted from a sales support position to the General Manager of their Vancouver branch, in recognition for his exemplary performance and as a result of him meeting or exceeding sales targets set by the Defendant.

6. At all times, Housien was a loyal and dedicated employee who performed all employment duties and obligations in a diligent, professional and competent manner, to the best of his ability.
7. During his tenure, Housien had never been subject to disciplinary action and possessed an unblemished record of service.
8. Every holiday season for the five (5) years preceding his dismissal, Housien appreciated receiving a gift box from the Defendant which was filled with a variety of foods and other items.
9. In or around December of 2019, the Defendant provided Housien with the annual gift box. As opposed to previous years, this box only included a \$6.00 bottle of hickory barbeque sauce and a wooden barbeque scraper. Housien looked forward to the annual gift box and he was extremely disappointed with its minimal contents.
10. His disappointment was furthered when he learned that employees of the Defendant's United States based locations received a significantly more bountiful holiday gift box, similar to those provided to him in past years.
11. Enclosed with Housien's barbeque sauce was a letter from the Defendant encouraging him to find it in his heart to share something from the box with others.
12. Disappointed with the gift box and upset with the letter, Housien posted a tweet from an anonymous twitter account, wherein he stated that he was displeased with the Defendant's actions.
13. The account did not have any followers and the tweet garnered no engagement on the site from other users.
14. After the Defendant commenced a two (2) day investigation into the source of the tweet, they discovered that one of their employees authored the post.

15. Instead of reprimanding Housien for the saucy tweet, on December 30, 2019, the Defendant informed him that he was terminated for just cause, effective immediately.

Part 2: RELIEF SOUGHT

1. The Plaintiff seeks the following relief:
 - (a) Damages for wrongful dismissal equivalent to ten (10) months' notice, totaling \$56,666.67;
 - (b) Damages for loss of benefits throughout the ten (10) month notice period, including, but not limited to, participation in the Defendant's comprehensive group benefits program, the particulars of which will be provided prior to trial;
 - (c) Vacation and lieu days accrued at the date of termination and that will accrue during the applicable notice period, the particulars of which will be provided prior to trial;
 - (d) Special damages for out-of-pocket expenses incurred in attempting to mitigate his losses and obtain alternate, comparable employment, the full particulars of which will be provided prior to or at trial;
 - (e) Aggravated and punitive damages owed to the Plaintiff in the amount of \$50,000.00;
 - (f) Pre-judgment interest on the aforementioned amounts pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
 - (g) Post-judgment interest on the aforementioned amounts pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
 - (h) Costs of this action, together with applicable taxes thereon, in accordance with the *Excise Tax Act*, R.S.C. 1985, c. E-15; and

- (i) Such further and other relief as counsel may advise and this Honourable Court may permit.

Part 3: LEGAL BASIS

Wrongful Dismissal

1. The termination of Housien's employment without reasonable notice and without just cause constitutes a breach of contract by the Defendant and a wrongful dismissal.
2. Housien states that the conditions of his employment with the Defendant did not contain any terms which rebut the common law presumption of reasonable notice of termination. Therefore, Housien pleads that it was an express and/or an implied term of his employment contract with the Defendant that his employment could only be terminated upon the provision of reasonable notice, or pay in lieu thereof, or for just cause.
3. Housien specifically pleads that the Defendant did not have just cause to terminate his employment and puts the Defendant to strict proof thereof. Housien pleads that all times over his tenure with the Defendant, he was a loyal and dedicated employee who performed all employment duties and obligations in a diligent, professional and highly capable manner to the best of his ability.
4. Accordingly, Housien pleads that he is entitled to a reasonable notice period of ten (10) months, based on the following circumstances:
 - (a) His impressive tenure of six-and-a-half (6.5) years with the Defendant;
 - (b) His senior and managerial position;
 - (c) His rate of remuneration with the Defendant;
 - (d) The unfounded allegations of just cause that he now faces;
 - (e) The publicity surrounding his dismissal;

(f) That he has no reference letter or post-employment support whatsoever from the Defendant; and

(g) Other factors which will be particularized prior to trial.

5. Housien states that he is entitled to damages for his economic losses as a consequence of the Defendant's failure to provide him with reasonable notice of termination, having regard to what he would have been entitled to receive during the ten (10) month reasonable notice period. Specifically, Housien states that he is entitled to his entire remuneration package as particularized above, as well as other benefits of economic value, a complete list of which will be particularized prior to trial.

Aggravated and Punitive Damages

6. Housien submits that it was an express or implied term of his employment contract with the Defendant that he be treated at all times fairly, in good faith, and with respect and civility. Housien pleads that the Defendant acted in extraordinary bad faith in terminating his employment in the manner that it did.
7. Housien pleads that after approximately six-and-a-half (6.5) years of devoted service and loyalty to the Defendant, he was entitled to be treated in a fair and dignified fashion when his employment was being terminated. Indeed, having no understanding of the law, Housien was in a vulnerable position upon termination and relied entirely upon the Defendant to know and comply with the law in providing him with his legal entitlements.
8. However, instead of discharging its duty to act honestly in the performance of its contractual obligations owed to Housien, the Defendant preyed upon his vulnerability. Without any legal basis for doing so, the Defendant refused to provide Housien with his common law entitlements upon termination. In fact, the Defendant failed to provide Housien with even his statutory minimum entitlements under the *Employment Standards Act* ("ESA").
9. Housien pleads that, at all material times, the Defendant was aware or ought to have been aware that he was entitled to statutory and common law notice of termination. This is

especially true given that Housien was an exemplary employee and there were no performance or disciplinary concerns during his tenure with the Defendant. Housien pleads that the Defendant's conduct in withholding these amounts is egregious, arrogant, high-handed and unduly insensitive.

10. Housien pleads that the conduct, individually and cumulatively, of the Defendant as described above, constitute separate actionable wrongs for which the Defendant must be censured.
11. The Defendant has treated Housien in a malicious, high-handed, arrogant and contemptuous manner. The Defendant's behavior has shown a callous disregard and complete lack of care for Housien entitling him to an award of punitive and aggravated damages as against the Defendant.
12. Accordingly, based upon all the foregoing, Housien pleads that he is entitled to both aggravated and punitive damages, amounting to \$50,000.00.

Mitigation

13. Housien has taken, and continues to take, diligent steps to mitigate his damages. Despite his best efforts, Housien has yet to find comparable employment similar to that which he had with the Defendant.
14. Housien states that his mitigation efforts will be hindered by the Defendant's failure to provide him with a positive reference letter.

Plaintiff's address for service: **Samfiru Tumarkin LLP**
Barristers & Solicitors
580 Hornby Street, Suite 520
Vancouver, BC V6C 3B6


Fax number address for service: 604-637-5621

Email address for service: lior.samfiru@stlawyers.ca

Place of trial: Vancouver, BC

The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

Date: February 3, 2020



Signature of Lawyer for the Plaintiff
Lior Samfiru

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:

This is an action for damages for *inter alia*, wrongful dismissal, and lost benefits.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

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

Part 3: THIS CLAIM INVOLVES:

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

Part 4:

- Builders Lien Act
- Divorce Act
- Family Relations Act
- Insurance (Motor Vehicle) Act
- Insurance (Vehicle) Act
- Motor Vehicle Act
- Occupiers Liability Act