

Original filed on March 29, 2017.  
Amended pursuant to Supreme Court Civil Rule  
6-1(1)(a)

No. S172192  
Vancouver Registry

**SUPREME COURT  
OF BRITISH COLUMBIA  
Vancouver Registry**

*In the Supreme Court of British Columbia*

JAN 25 2018

**676083 B.C. Ltd.**

and



Plaintiff

**Revolution Resource Recovery Inc.**

Defendant

Brought pursuant to *The Class Proceedings Act*, R.S.B.C. 1996, c.50

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**SECOND AMENDED NOTICE OF CIVIL CLAIM**

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This action has been started by the plaintiff 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

- (c) 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
- (d) 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 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 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, 67608338 B.C. Ltd. is a British Columbia company with its registered office in Surrey, British Columbia.
2. The defendant, Revolution Resource Recovery Inc. ("Revolution"), is a Canadian company with its registered office in Surrey, British Columbia.
3. Prior to November 2011, 67608338 B.C. Ltd. entered into a contract with Revolution for the provision of waste and recycling services. On November 3, 2011, 676083 B.C. Ltd. renewed its Customer Service Agreement with Revolution.
4. As of February 2017, 676083 B.C. Ltd. terminated its Customer Service Agreement with Revolution.

***The Class and the Class Period***

5. This action is brought on behalf of all persons resident in British Columbia who had contracts with Revolution for the provision of waste and recycling disposal services from January 1, 2015 to the present (the "Class Period"), and who paid a "Government Surcharge/Material Ban" fee to Revolution .

***Factual Background to Claim***

6. Beginning in January, 2015, the GVRD introduced the Organics Disposal Ban.
7. Under the Organics Disposal Ban, the GVRD required that organics and food scraps be separated from garbage disposed at Metro Vancouver and City of Vancouver waste disposal facilities.
8. Between January 1, 2015 and June 30, 2015, the Organics Disposal Ban was enforced by way of an education program. Information on the Organics Disposal Ban was provided to haulers who disposed of loads of waste contaminated with over 25% organics and food scraps.
9. Beginning July 1, 2015 the Organics Disposal Ban was enforced through fines:
  - (a) from July 1, 2015 to December 31, 2016, haulers who disposed of loads of waste contaminated with over 25% organics and food scraps were subject to fines; and
  - (b) from January 1, 2017 to the present, haulers who disposed of loads of waste contaminated with over 5% organics and food scraps were subject to fines.
10. Haulers may also be charged surcharges levied by the GVRD under the *Greater Vancouver Sewerage and Drainage District Tipping Fee and Solid Waste Disposal Bylaw* No. 293, 2015, and No. 302, 2016 (the "Tipping Fee Bylaws").
11. Revolution provides waste management and recycling disposal services to its clients in the GVRD. The terms of Class members' contracts with Revolution are

set out in Revolution's customer service agreements, which include Revolution's standard form "General Conditions". The General Conditions include a term that Revolution may charge its customers surcharges, fines, or levies where those costs were incurred by Revolution.

12. Beginning in April, 2015, and continuing throughout the Class Period, Revolution charged the Class surcharges for fines related to the Organics Disposal Ban and/or the Tipping Fee Bylaws that exceed and/or bear no relation to the fines charged to Revolution by the GVRD in relation to the Organics Disposal Ban and/or fines the Tipping Fee Bylaws (the "Government Surcharge/Material Ban").
13. ~~Right~~ The plaintiff had a contract with Revolution for the provision of waste management and recycling disposal services during the Class Period and was charged the Government Surcharge/Material Ban.

## **PART 2: RELIEF SOUGHT**

14. The plaintiff claims against Revolution as follows:
  - (a) an order certifying the proceeding as a class proceeding;
  - (b) damages for breach of contract;
  - (c) punitive damages;
  - (d) the costs of administering and distributing an aggregate damage award;
  - (e) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
  - (f) such further relief as this Honourable Court deems just.

## **PART 3: LEGAL BASIS**

### ***Breach of Contract***

15. The customer service agreements are contracts between Revolution and the members of the Class. Each customer service agreement includes a term that

Revolution may charge surcharges and fines where those costs were incurred by Revolution.

16. Revolution breached the customer service agreements by charging the Government Surcharge/Material Ban without having incurred a corresponding fine or surcharge.
17. Revolution is liable to the Class members for damages for breach of contract.

***Unjust Enrichment***

18. Further, or alternatively, the plaintiff pleads that Right-it and other members of the Class are entitled to recover under restitutionary principles.
19. Revolution was unjustly enriched by the receipt of the Government Surcharge/Material Ban. The plaintiff and other members of the Class have suffered a corresponding deprivation in the amount of the Government Surcharge/Material Ban.
20. There is no juristic reason for Revolution to retain any part of the Government Surcharge/Material Ban, and Revolution must disgorge and make restitution of the Government Surcharge/Material Ban to the Class.

***Aggregate Damages***

21. The restitution and damages sought by the plaintiff and other members of the Class above can be calculated on an aggregate basis for the Class as provided by ss. 29 and 30 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

***Punitive Damages***

22. The plaintiff pleads that Revolution's conduct in unlawfully collecting the Government Surcharge/Material Ban from the Class was high-handed, entirely without care, deliberate, wilful, and an intentional disregard of the rights of the Class. Such conduct renders Revolution liable to pay punitive damages.

Plaintiff's address for service:

**CAMP FIORANTE MATTHEWS MOGERMAN**  
#400 – 856 Homer Street  
Vancouver, BC V6B 2W5

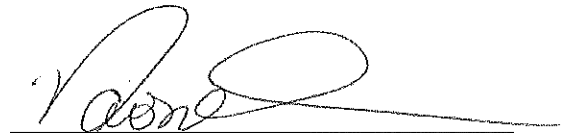
Tel: (604) 689-7555  
Fax: (604) 689-7554

Email: [service@cfmlawyers.ca](mailto:service@cfmlawyers.ca)

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC V6Z 2E1

Date: 29/March/2017



Signature of lawyer  
for plaintiff

Naomi Kovak

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.

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#### APPENDIX

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*[The following information is provided for data collection purposes only and is of no legal effect.]*

#### **CONCISE SUMMARY OF NATURE OF CLAIM:**

An action commenced under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, for breach of contract and unjust enrichment in relation to excess fees that were charged by the defendant.

#### **THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects

- real property (real estate)
- personal property
- X 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

THIS CLAIM INVOLVES:

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

*[If an enactment is being relied on, specify. Do not list more than 3 enactments.]*

1. *Class Proceedings Act, R.S.B.C. 1996, c. 50.*