

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.



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, 2002, 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 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

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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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