



Form 1 (Rule 3-1(1))

S1811373

No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
BETWEEN:

SCOUTS CANADA

PLAINTIFF

AND:

SCOUT PROPERTIES (B.C./YUKON)

DEFENDANT

NOTICE OF CIVIL CLAIM

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

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

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

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

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

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

Time for response to civil claim

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

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

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

CLAIM OF THE PLAINTIFF(S)

Part 1: STATEMENT OF FACTS

Background

1. The Plaintiff, Scouts Canada ("**Scouts Canada**"), is a federal company incorporated by a *Special Act of Parliament* (1914-06-12). Scouts Canada has a registered office at 1345 Baseline Road, Ottawa, Ontario.
2. The Defendant, Scout Properties (B.C./Yukon) ("**Scout Properties**"), is a federal corporation incorporated under the *Canada Not-for-profit Corporations Act* (S.C. 2009, c. 23). Scout Properties has a registered office at #800 – 1070 Douglas Street, Victoria, British Columbia.
3. Scouts Canada's mission is to help develop well-rounded youth, better prepared for success in the world. In furtherance of such mission, Scouts Canada provides various programs for children and youth, including various outdoor, leadership, community, and cultural programs.
4. Over the years, Scouts Canada has acquired various properties (the "**Properties**") throughout Canada, including through charitable donations. Over the years, the Properties have been held, variously, by: individual and institutional trustees in trust for Scouts Canada; unincorporated provincial councils of Scouts Canada which have no separate legal personality apart from Scouts Canada; and holding companies (the "**Scouts Canada Holding Companies**") incorporated by the provincial councils of Scouts Canada for the purpose of holding the Properties as bare trustees for Scouts Canada.
5. The predecessor to Scout Properties was Scout Properties (B.C./Yukon) Ltd., a company incorporated in British Columbia as a Scouts Canada Holding Company. Scout Properties (B.C./Yukon) Ltd. was continued out of British Columbia to become Scout Properties, a federal not for profit company, and the Certificate of Continuance was filed March 6, 2013. Scout Properties has carried on the role previously carried on by Scout Properties (B.C./Yukon), which was to act as a Scouts Canada Holding Company.

Scouts Canada's interest in the Subject Property

6. The claims in this action pertain to one of the Properties which is located at 664 West Broadway, Vancouver, British Columbia, with a legal description as follows:

Parcel Identifier: 015-183-831
Lot 4 Block 359 District Lot 526 Plan 590

(the "Subject Property").

7. Legal title to the Subject Property has been held, in chronological order, as follows: by various individuals in trust for Scouts Canada; by an institutional trustee, The Canada Permanent Trust Company, in trust for Scouts Canada; by Scout Properties (B.C./Yukon) Ltd. in trust for Scouts Canada; and by Scout Properties in trust for Scouts Canada.
8. At all times, Scouts Canada was, and is, the sole beneficial owner of the Subject Property and should the Subject Property be sold would be entitled to the proceeds of any sale of the Subject Property.
9. At all times, the Subject Property was used exclusively by Scouts Canada for the sole benefit of Scouts Canada, and all expenses relating to the Subject Property have been paid by Scouts Canada.

Scout Properties' attempts to sell the Subject Property

10. In 2018, Scouts Canada learned that Scout Properties had taken steps to sell the Subject Property including entering into an Exclusive Listing Agreement with Avison Young Commercial Real Estate (B.C.) Inc. dated July 6, 2018:
 - (a) without the consent or authorization of Scouts Canada, as the sole beneficial owner of the Subject Property; and
 - (b) without following established policies and procedures governing any sale of the Properties (the "**Agreed Policies**"), which had been agreed to by the parties and followed in previous sales of Properties.
11. The steps taken by Scout Properties to sell the Subject Property constitutes a breach of trust by Scout Properties, which holds the Subject Property as bare trustee for Scouts Canada and a breach of the Agreed Policies.
12. Scouts Canada has demanded that Scout Properties cease to take further steps to sell the Subject Property and deal with the proceeds of any sale without the consent and authorization of Scouts Canada and without following the Agreed Policies. Scouts Canada has also asked Scout Properties to confirm that they will cease such actions. Scout Properties has refused and failed to provide such confirmation, and threatens and intends to take further steps to sell the Subject Property and deal with the proceeds of any sale without the consent and authorization of Scouts Canada and without following the Agreed Policies.

Part 2: RELIEF SOUGHT

1. A Declaration that Scouts Canada is the sole beneficial owner of the Subject Property and should the Subject Property be sold entitled to the proceeds from any sale of the Subject Property;
2. A Certificate of Pending Litigation on title to the Subject Property;

3. An interim and interlocutory injunction restraining Scout Properties from selling, transferring, causing to be encumbered, or otherwise taking steps to sell the Subject Property pending a final disposition of this action or further order of this Court;
4. An interim and interlocutory injunction restraining Scout Properties from dealing with the proceeds of any sale of the Subject Property pending a final disposition of this action or further order of this Court;
5. Damages for breach of contract and breach of trust;
6. The equitable remedies of tracing with respect to the proceeds of any sale of the Subject Property or new substituted assets;
7. Costs;
8. Interest pursuant to the *Court Order Interest Act* (BC); and
9. Such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

1. Scout Properties holds the legal title to the Subject Property as a bare trustee of Scouts Canada. The steps taken by Scout Properties to sell the Subject Property and deal with the proceeds of any sale of the Subject Property, without the consent and authorization of Scouts Canada and without following the Agreed Policies, constitutes a breach of trust and a breach of the Agreed Policies by Scout Properties.
2. Scouts Canada has suffered and will continue to suffer damages and loss as a result of Scout Properties' breach of trust and contract, including the loss of opportunity to deal with the Subject Property in a manner most beneficial to Scouts Canada, and the loss of the Subject Property and the proceeds of the sale of such property if Scouts Properties sells the Subject Property without the consent and authorization Scouts Canada, and without following the Agreed Policies.
3. Scouts Properties threatens and intends to take steps to sell the Subject Property and deal with the proceeds of such sale without the consent and authorization of Scouts Canada and without following the Agreed Policies. Such actions will cause irreparable harm to Scouts Canada, and Scouts Canada seeks an interim and interlocutory injunction restraining Scout Properties from taking such actions pending a final disposition of this action or further order of this Court.
4. Scouts Canada claims an interest in the Subject Property, namely beneficial ownership, and as such is entitled to register a Certificate of Pending Litigation on title to the Subject Property.

Plaintiff's address for service:

c/o Martin Palleson
Gowling WLG (Canada) LLP
Suite 2300 - 550 Burrard Street
Vancouver, BC V6C 2B5

Fax number address for service (if any): 604-683-3558
E-mail address for service (if any): martin.pallesen@gowlingwlg.com
Place of trial: Vancouver, BC
The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

Dated: October 22, 2018

Martin Pallesen "Martin Pallesen"

Solicitor for the Plaintiff

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

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

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The Defendant holds legal title to certain property as a bare trustee for the Plaintiff. The Defendant has taken steps to sell the property and deal with the proceeds of such sale without the consent or authorization of the Plaintiff and without following agreed policies and procedures. The Plaintiff claims against the Defendant for breach of trust and seeks injunctive relief to enjoin the Defendant's intended actions.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

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

Part 3: THIS CLAIM INVOLVES:

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