



NO. S-238586
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

1038573 B.C. LTD.

PLAINTIFF

AND:

THE OWNERS, STRATA PLAN NW289, JENNY DONNA DICKISON, FERNANDO MARCELINO DUTRA DE SOUSA, 1276331 B.C. LTD., CARMELIA MARIA DA SILVA, HON-CHING RUDOLPH CHENG, 1161359 B.C. LTD., RICKY HEE MENG LAI, PIA FACCIO, 1184416 B.C. LTD., MARK WILLIAM LOUTTIT and SARAH KINUKO LOUTTIT, BARRY DOUGLAS WATSON, AS ADMINISTRATOR OF THE ESTATE OF KENNETH JOHN WATSON, LI PING DUAN, NORMAN VICTOR LEECH, ROLANDO VINAS DIZON and NARCISA DIZON, NICHOLAS GEORGE KARAMOUZOS and MARIA KARAMOUZOS, CUI MING CHEN, YANKUI WANG and XIN TIAN, MARIA DA NATIVIDADE ALMEIDA, 1237765 B.C. LTD., JU-SHAN CHIANG and FLORA FU, 1184414 B.C. LTD., AMARSINGH BHATIA and NARANJAN KAUR BHATIA, PHUNG KIM VUONG and TUONG LAM, MONICA PAOLA ALIAGA, MARCELINO LOPES DE SOUSA and OLGA MARIA DUTRA DE SOUSA, 1184413 B.C. LTD., LUALHATI ONGKEKO CRISOSTOMO, RICHARD RAYMOND RAVENSBERGEN and DAWN MARIE RAVENSBERGEN, YUK FAR CHEUNG and YIN ON CHEUNG, GARY LUCIEN DREES, THOMAS PATRICK FLEMING, 1352962 B.C. LTD., WAN CHEN and HONG YANG, SU JUAN SITU, VAN DAO NGUYEN and THI BICH HANG NGUYEN, JULIAN BOZSIK, CHRISTIAN HERBERT JOSON-LIM and IRIS JUNE CALIBUGAN ADIONG, ANGELA JOY EYKELBOSH, NGUYEN THANH VUONG and TUYET NGOC DU, OM PARKASH LOOMBA and MERRAN LOOMBA, SUZANNE JUANITA KUDELSKI, YAN QIONG LU, PING HE, EDWARD LAWRENCE THUE, RICHARD CHARLES PATRICK SPENCER and DIANE MARIE SPENCER, ARTHUR SUMMERS WILLIAMSON, GARY DALE CHARTER and CRISTINA RIMANDO GAPAL, JU TAI ZHOU and YU QING LI, ZHI HAO YANG, DAISY CUETO EVANGELISTA and MARIA CHERRY EVANGELISTA, MEGAN MARY BURGHALL, NASIM BHALOO, HUI LIN DONG and LI WANG, MANSOUR MESHKI, HSIANG CHIAO HUANG, GORDON WILLIAM PATERSON, YVONNE JO-ANNE ENGLAND, GRACE JOANNA LEVSEN, PING CHOR CHAN, SO FAN LEE and TAK TAI LUI

DEFENDANTS

1038573 B.C. LTD.

DEFENDANT BY WAY OF COUNTERCLAIM

AMENDED COUNTERCLAIM

Filed by: The Owners, Strata Plan NW289 as represented by the liquidator, Crowe MacKay & Company Ltd. (the “Liquidator”).

TO: The Plaintiff, 1038573 B.C. Ltd.

This action has been brought by the Plaintiff against the Defendants for the relief set out in the Notice of Civil Claim filed in this action.

TAKE NOTICE that the Defendant claims against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND to the claim made against you in this Counterclaim, or if you have a set-off or counterclaim that you wish to have taken into account at trial, YOU MUST FILE a Response to Counterclaim in Form 4 in the above-named registry of this court within the time for Response to Counterclaim described below and SERVE a copy of the filed Response to Counterclaim on the address for service of the Defendant bringing this Counterclaim.

YOU OR YOUR LAWYER may file the Response to Counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Counterclaim within the time for Response to Counterclaim described below.

Time for Response to Counterclaim

A Response to Counterclaim must be filed and served on the Defendant bringing this Counterclaim,

- (a) if you were served with the Counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Counterclaim anywhere else, within 49 days after that service, or
- (d) if the time for Response to Counterclaim has been set by order of the court, within that time.

CLAIM OF THE DEFENDANT BRINGING THE AMENDED COUNTERCLAIM

Part 1: STATEMENT OF FACTS

1. Unless otherwise defined herein, the Liquidator adopts and shall use the defined terms set out in the Amended Response to Civil Claim of the Liquidator filed ~~December 22~~ August 2, 2023 ~~2024~~ (the “Liquidator’s Amended Response”).

2. The Liquidator incorporates into this Amended Counterclaim, and repeats and relies on, the allegations of fact set out in Part 1 of the Liquidator's Amended Response.

3. As a result of the breach and repudiation of the PSA by the plaintiff/defendant by counterclaim, the Liquidator and the other defendants suffered and will continue to suffer loss, damage and expense.

Part 2: RELIEF SOUGHT

4. ~~A declaration~~An order that the plaintiff/defendant by counterclaim ~~repudiated~~specifically perform the PSA ~~and it is at on~~ such date as is designated by this Honourable Court.

5. ~~In the alternative, an end.~~

5. ~~An order that the Deposit, as defined in the Liquidator's Response, be released immediately to the Liquidator, together with all interest earned thereon.~~

6. Damages against the plaintiff/defendant by counterclaim for breach of the PSA.

7. Interest pursuant to the *Court Order Interest Act*.

8. Costs.

Part 3: LEGAL BASIS

9. The Liquidator incorporates into this Amended Counterclaim, and repeats and relies on, the legal basis set out in Part 3 of the Liquidator's Amended Response.


Address for service of the Defendant bringing this Amended Counterclaim is c/o the law firm of Lawson Lundell LLP, whose place of business and address for service is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2 (Attention: Peter J. Roberts, K.C. / Sarah B. Hannigan).

Fax number address for service is: n/a

E-mail address for service is: proberts@lawsonlundell.com / shannigan@lawsonlundell.com

The address of the Registry is: 800 Smithe Street, Vancouver,
British Columbia V6Z 2E1

Dated at the City of Vancouver, in the Province of British Columbia, this 22nd day of August, 2024.


Lawson Lundell LLP
Solicitors for the Defendant, The Owners, Strata
Plan NW289 as represented by the liquidator,
Crowe MacKay & Company Ltd.

This Amended Counterclaim is filed by Peter J. Roberts, K.C. / Sarah B. Hannigan, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

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.