



No. S-224947
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

Mary Reynolds

Plaintiff

And:

Deep Water Recovery Ltd., Mark Jurisich, John Doe #1, John
Doe #2, John Doe #3, and John Doe #4

Defendants

And:

Mary Reynolds

Defendant by way of Counterclaim

COUNTERCLAIM

Filed by: The Defendant, Deep Water Recovery Ltd. (“Deep Water Recovery”)

To: The Plaintiff, Mary Reynolds

This action has been brought by the plaintiff against the defendant for the relief set out in the notice of civil claim in this action.

TAKE NOTICE that the Defendant Deep Water Recovery 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 you wish to have taken into account at the trial, YOU MUST FILE a response to counterclaim in Form 4 in the above-noted 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(s) bringing this counterclaim.

YOU OR YOUR LAWYER may file the response to counterclaim.

JUDGEMENT 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 the 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 this court, within that time.

CLAIM OF THE DEFENDANT BRINGING THE COUNTERCLAIM

PART 1: STATEMENT OF FACTS

1. The Defendant, Deep Water Recovery, counterclaims against the Plaintiff, Mary Reynolds.
2. Deep Water Recovery repeats, relies on and incorporates into this Counterclaim the facts, matters and defined terms contained at paragraphs 5 to 24 and 54 of Part 1, Division 2 of its Response to Civil Claim filed in this Action.
3. The Plaintiff, in coordination with others, has engaged in a malicious campaign against Deep Water Recovery. The Plaintiff's campaign against Deep Water Recovery is driven by conduct that is wrongful, high-handed, and deserving of rebuke. The Plaintiff's wrongful conduct includes continuing acts of trespass, nuisance, invasion of privacy, and the illegal operation of a drone, all of which are calculated to disrupt, interfere with, and ultimately shut down Deep Water Recovery's business activities and operations. The Plaintiff has unjustifiably refused to cease the wrongful conduct, despite Deep Water Recovery's demands and the RCMP's instructions that she stop doing so. The Plaintiff continues to engage in the wrongful conduct in flagrant disregard of Deep Water Recovery's property and privacy rights.
4. As a result of the Plaintiff's actions as detailed in the Response to Civil Claim, Deep Water Recovery has suffered loss, damage, and expense.

PART 2: RELIEF SOUGHT

1. Deep Water seeks the following relief against the Plaintiff:
 - (a) a declaration that the acts of the Plaintiff are a trespass and are in violation of Deep Water Recovery's property rights;
 - (b) a declaration that the acts of the Plaintiff are a nuisance and are in violation of Deep Water Recovery's property rights;
 - (c) an interim, interlocutory and permanent mandatory injunction restraining the Plaintiff from:
 - (i) trespassing onto Deep Water Recovery's Property; and
 - (ii) trespassing into Deep Water Recovery's Property by operating a drone in Deep Water Recovery's airspace.
 - (d) damages for trespass;
 - (e) damages for nuisance;
 - (f) statutory damages, pursuant to s. 1 of the *Privacy Act*, R.S.B.C. 1996, c. 373;
 - (g) punitive damages;
 - (h) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
 - (i) special costs or costs; and
 - (j) such further and other relief as this Honourable Court may deem just.

PART 3: LEGAL BASIS

I. Trespass and Nuisance

1. Deep Water Recovery has a right to the use and enjoyment of its land without unreasonable interference by the conduct of another. The right exists whether the Plaintiff commits a trespass,

such that the interference results from the Plaintiff's conduct on the affected land itself, or a nuisance, such that the interference results from the Plaintiff's conduct elsewhere.

2. The Plaintiff has no right of use or entry in respect of the Property. The Plaintiff is unlawfully continuing to enter upon the land comprising the Property despite having notice from Deep Water Recovery that entry is prohibited. The Plaintiff has repeatedly trespassed onto the Property, contrary to the *Trespass Act*, R.S.B.C. 2018, c. 3.

3. The Plaintiff has, through her conduct, wrongfully and without lawful excuse directly interfered with Deep Water Recovery's use, occupation and enjoyment of the Property. The Plaintiff has intentionally and physically entered upon the Property and used the airspace of the Property to fly a drone without Deep Water Recovery's consent and without the legal right to do so. The Plaintiff has thereby committed the tort of trespass.

4. The conduct of the Plaintiff in repeatedly flying a drone into the airspace of the Property without lawful excuse constitutes an unreasonable, non-trivial, and substantial interference with Deep Water Recovery's use and enjoyment of the Property, and has interrupted and interfered with Deep Water Recovery's business activities and operations. The Plaintiff has thereby committed the tort of nuisance.

II. Invasion of Privacy

5. The Plaintiff has willfully, and for the purpose of advancing the campaign to shut down Deep Water Recovery's business, conducted surveillance, recorded Deep Water Recovery's business activities, operations, and employees on private property, and disseminated the images and recordings collected to third parties, without a claim of right or permission. The Plaintiff's unauthorized surveillance, recordings, and dissemination of the recordings of Deep Water Recovery's business activities, operations, and employees on private property was not reasonable in the circumstances, having regard to the lawful interests of Deep Water Recovery. The Plaintiff

has thereby infringed upon the privacy of Deep Water Recovery, in violation of s. 1 of the *Privacy Act*, R.S.B.C. 1996, c. 373.

III. Punitive Damages

6. Punitive damages are warranted in the circumstances as a result of malicious, oppressive and high-handed conduct wherein deterrence and denunciation is warranted, and where the Plaintiff's actions were planned, deliberate, intentional, and done with awareness and for the purpose of personal gain.

7. The Plaintiff, in concert with others, has embarked on an unlawful course of conduct directly targeting Deep Water Recovery. The Plaintiff's unlawful conduct, which includes trespass, nuisance, invasion of privacy, and the unlawful operation of a drone, is calculated to disrupt, interfere with, and ultimately shut down Deep Water Recovery's business activities and operations, for the Plaintiff's own personal gain. The Plaintiff continues to engage in the unlawful conduct, in circumstances where Deep Water Recovery has demanded that she cease, and where the RCMP has instructed her to cease. The Plaintiff's ongoing violations of Deep Water Recovery's property and privacy interests are malicious, high-handed, and deserving of rebuke.

Defendant's address for service:

BORDEN LADNER GERVAIS LLP
1200 Waterfront Centre
200 Burrard Street
P.O. Box 48600
Vancouver, British Columbia
V7X 1T2
Attention: Matthew G. Swanson

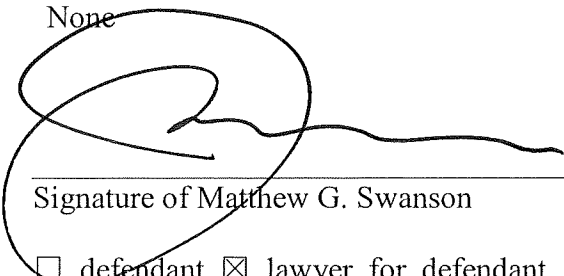
Fax number for service (if any):

None

E-mail address for service (if any):

None

Date: July 13, 2022



Signature of Matthew G. Swanson

☐ defendant ☒ lawyer for defendant, Deep Water Recovery Ltd.

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

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

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Defendants

COUNTERCLAIM

BORDEN LADNER GERV AIS LLP
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