



S-231791

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TEAL-JONES GROUP

PLAINTIFF

AND:

HAMPTON LUMBER MILLS - CANADA, LTD., FORT ST.
JAMES FOREST PRODUCTS HOLDING ULC, FORT ST.
JAMES FOREST PRODUCTS LIMITED PARTNERSHIP
and 0547309 B.C. LTD., DOING BUSINESS AS ALLEN'S
SCRAP & SALVAGE

DEFENDANTS

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.

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Time for response to civil claim

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

- (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,
- (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

Part 1: STATEMENT OF FACTS

The Parties

1. The plaintiff, Teal-Jones Group ("**Teal Jones**"), is a British Columbia general partnership with an address for service in this proceeding at 2800 Park Place 666 Burrard Street, Vancouver B.C., V6C 2Z7.
2. Teal Jones is in the business of harvesting timber and manufacturing primary lumber products. It operates several sawmills, including sawmills located in Surrey, British Columbia and in the southern United States.
3. The defendant Hampton Lumber Mills - Canada, Ltd. ("**Hampton**") is company incorporated under the laws of British Columbia, with a registered and records office at 700 West Georgia St, Suite 220, P.O. Box 10325, Vancouver B.C., V7Y 1K8.
4. The defendant Fort St. James Forest Products Holding ULC ("**Fort St. James Holding**") is company incorporated under the laws of British Columbia, with a registered and records office at 1200 Waterfront Centre, 200 Burrard Street, P.O. Box 48600, Vancouver B.C., V7X 1T2.

5. The defendant Fort St. James Forest Products Limited Partnership ("**Fort St. James LP**") is a British Columbia limited partnership, with a registered and records office at 1200 Waterfront Centre, 200 Burrard Street, P.O. Box 48600, Vancouver B.C., V7X 1T2.
6. The defendant 0547309 B.C. Ltd., doing business as Allen's Scrap & Salvage, ("**Allen's Scrap**") is a company incorporated under the laws of British Columbia, with a registered and records office at 614 - 1488 4th Avenue, Prince George B.C., V2L 4Y2.
7. Among other scrap and salvage services, Allen's Scrap provides industrial equipment demolition, scrap and salvage services throughout northern British Columbia.

Relationship Between Hampton and Fort St. James Defendants

8. The defendants Hampton, Fort St. James Holding, and Fort St. James LP are related entities.
9. The precise relationship between Hampton, Fort St. James Holding and Fort St. James LP is unknown to Teal Jones.
10. Fort St. James Holding is the registered owner of the sawmill located in Fort St. James, British Columbia, bearing title number CA7847275 and parcel identifier 026-468-646 (the "**Fort St. James Mill**").
11. Hampton operates the sawmill at the Fort St. James Mill in its own name, or in the alternative through its agent Fort St. James LP.
12. In the further alternative, Fort St. James LP operates the sawmill at the Fort St. James Mill in its own name, or in the alternative through its agent Hampton.
13. Fort St. James Holding holds the Fort St. James Mill in trust for Hampton, or in the alternative in trust for Fort St. James LP.

The Equipment Agreement

14. In or around August 2021, Teal Jones entered into an agreement (the "**Agreement**") with Hampton for the purchase of certain mill equipment from the Fort St. James Mill (the "**Equipment**"), including specifically:
 - (a) Large Canter Line from Debarker Infeed to and including gang outfeed (the "**Large Canter Line**");
 - (b) Small Canter Line from Debarker Infeed to and including gang outfeed (the "**Small Canter Line**");
 - (c) McGehee Board Edger Line from unscrambler incline transfer to and including edger outfeed belt and transfer; and
 - (d) Sawmill sorter line from infeed unscramble incline transfer to and including haul out chains.
15. In the alternative, Teal Jones entered into the Agreement with Fort St. James LP and Hampton acted as agent for Fort St. James LP in reaching the Agreement.
16. In the further alternative, Teal Jones entered into the Agreement with Fort St. James Holding and Hampton acted as agent for Fort St. James Holding in reaching the Agreement.
17. Teal Jones intended to purchase the Equipment for use in both the construction of its greenfield mill site in Plain Dealing, Louisiana (the "**Louisiana Mill**"), currently under construction with commissioning planned for February 2024, as well as its other sawmill operations located in the U.S. South.
18. The Agreement was made partly orally, partly in writing and partly by conduct, particulars of which are as follows:
 - (a) Insofar as the Agreement was made orally, the Agreement was made in discussions between Hampton employees and agents, including Lloyd

Pederson and Gordon Would, Teal Jones employee Kiel Miller, and Brian Fehr, principle of Peak Renewables Ltd., Teal Jones' agent for the purchase of the Equipment. These discussions were held in or around August 2021.

- (b) Insofar as the Agreement was made partly in writing, the agreement is contained in or is to be inferred from invoices delivered to Teal Jones in or around September 2021 setting out the contract price and conditions of the purchase.
 - (c) Insofar as the Agreement arises from the conduct of the parties, that conduct consisted of Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, retaining possession of the Equipment pending removal by Teal Jones, and permitting Teal Jones' contractors access to the Fort St. James Mill from in fall 2021 to summer 2022 to complete removal of the Equipment during this period.
- 19. Under the Agreement Teal Jones agreed to pay Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, a total purchase price of \$2.2 million plus GST (the "**Purchase Price**") for the Equipment.
 - 20. Under the Agreement the Purchase Price was to be paid in three instalments, each to be made prior to the Equipment being removed from the Fort St. James Mill.
 - 21. Hampton directed Teal Jones to make the Purchase Price instalments payable to Fort St. James LP.
 - 22. It was an express term of the Agreement that the purchase of the Equipment included all associated systems and components, including electrical, hydraulic, controls and optimization systems as of July 15, 2021 (all of which forms part of the "Equipment" as defined above).
 - 23. Further, and in the alternative, it was an implied term of the Agreement that the Equipment were in good working order and would remain in good working order until Teal Jones removed the Equipment from the Fort St. James Mill.

24. Teal Jones paid the Purchase Price in full in three payments made on or about August 18, 2021, May 20, 2022 and July 5, 2022.

Equipment Removal and Scrapping of Other Material

25. In the fall of 2021, Teal Jones engaged a contractor, Parallel Welding Fabrication Ltd. ("**Parallel**"), to remove the Equipment from the Fort St. James Mill.
26. Teal Jones and Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, agreed on a schedule for the removal of the Equipment, beginning in or around November 2021.
27. Prior to the Equipment's removal by Parallel, Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, owed Teal Jones a duty of care to ensure the Equipment would not be damaged, including without limitation, a duty to properly instruct any of its contractors working near the Equipment to take all necessary precautions to ensure the Equipment would not be damaged.
28. Teal Jones reasonably expected, based on the Agreement terms and subsequently agreed schedule for the Equipment removal, that the Equipment would be kept in good working order until Parallel removed the Equipment.
29. In or around November 2021, Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, engaged Allen's Scrap to remove and scrap other equipment and material at the Fort St. James Mill (the "**Scrapping Services**").
30. Allen's Scrap was not engaged by any of Hampton, Fort St. James LP, Fort St. James Holding, or Teal Jones to remove or otherwise deal with the Equipment purchased by Teal Jones.
31. Allen's Scrap was or ought to have been aware at the time it was contracted for the Scrapping Services, or in the alternative at the time it provided the Scrapping

Services, that the Equipment purchased by Teal Jones would be at the Fort St. James Mill.

32. Allen's Scrap knew or ought to have known that failing to take reasonable care in and around the Equipment in the course of the Scrapping Services would cause damage to the Equipment and harm to Teal Jones.
33. On or around November 2021 Parallel began the process of removing the Equipment from the Fort St. James Mill.

Damage to the Equipment

34. While providing the Scrapping Services, Allen's Scrap failed to take reasonable care in and around the Equipment.
35. In or around June 2022, and at dates and times unknown to Teal Jones, Allen's Scrap damaged several pieces of the Equipment that remained at the Fort St. James Mill.
36. Among other damage, Allen's Scrap broke, scrapped or otherwise damaged the following components of the Equipment:
 - (a) the debarker ring on the Large Canter Line;
 - (b) the motor control centers for the Large Canter Line and Small Canter Line;
and
 - (c) electrical components of the Equipment(collectively, the "**Damaged Equipment**").
37. As a result of the Damaged Equipment, the Equipment was not suitable for the Louisiana Mill and Teal Jones was forced to source other equipment for this mill.

38. As a result of the Damaged Equipment, Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, breached the Agreement by:
- (a) failing to provide the Equipment to Teal Jones in good working order; and
 - (b) failing to provide Teal Jones with all associated electrical, hydraulic, controls and optimization systems as of July 15, 2021 for the Equipment.
39. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, failed to properly instruct Allen's Scrap to ensure that Allen's Scrap would not remove, scrap, or otherwise handle the Equipment, and failed to ensure that Allen's Scrap took all reasonable care in completing its contract for the Scrapping Services, to ensure that the Equipment was not damaged.
40. At all material times, including at the time the damage to the Equipment occurred, Teal Jones was the owner of the Equipment. Teal Jones had an immediate right to possession of the Equipment, though the Equipment was in the possession of Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, at the time of the Damaged Equipment.
41. The Damaged Equipment was caused by the negligence of Allen's Scrap in the course of its Scrapping Services contractual work, and by the negligence of Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, in failing to properly instruct and oversee Allen's Scrap as its contractor.
42. In the alternative, Allen's Scrap intentionally caused the Damaged Equipment. Allen's Scrap deliberately damaged the Equipment, or alternatively was reckless or wilfully blind in dealing with the Equipment as to whether damage would occur.
43. Allen's Scrap was aware that in completing the Scrapping Services it was using heavy machinery near electrical components of the Equipment. Allen's Scrap deliberately damaged the electrical components of the Equipment by using heavy

machinery to remove equipment and scrap from the Fort St. James Mill knowing that the electrical systems had not properly been disconnected.

Damages

44. As a direct result of Hampton's, Fort St. James Holding's, or Fort St. James LP's breach of contract and the negligence of the defendants, Teal Jones has and continues to incur damages including, *inter alia*:

- (a) Replacement, repair and refurbishment costs for the Damaged Equipment components;
- (b) Depreciation in value of the Equipment;
- (c) Increased costs associated with sourcing alternative equipment for the Louisiana Mill; and
- (d) Loss of opportunity and lost profits, including in particular at the Louisiana Mill due to delay in delivery of necessary mill equipment

(Collectively, the "**Damages**").

45. In the alternative the negligence of each of the defendants contributed to the Damages suffered by Teal Jones.

46. Further and in the alternative, the Damages were caused by Allen's Scrap's trespass to the Equipment.

47. In the further alternative, the Damages were the result of Allen's Scrap's conversion of the Equipment.

Part 2: RELIEF SOUGHT

1. The plaintiff claims against the defendants, jointly and severally, for the following:

- (a) general damages;

- (b) special damages;
- (c) interest pursuant to the *Court Order Interest Act*;
- (d) costs; and
- (e) such further other relief as this Court may deem just.

Part 3: LEGAL BASIS

1. Teal Jones pleads and relies on the *Negligence Act*, R.S.B.C. 1996, c. 333.

As Against Hampton, Fort St. James Holding and Fort St. James LP

2. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, is liable for breach of contract and negligence.
3. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, breached express and implied terms of the Agreement with Teal Jones by failing to provide the Equipment in good working order with all associated electrical, hydraulic, controls and optimization systems as of July 15, 2021.
4. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, is liable in negligence.
5. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, owed Teal Jones a duty of care as the party retaining possession of Teal Jones' Equipment pending its removal from the Fort St. James Mill.
6. Hampton, or in the alternative Fort St. James LP, or in the further alternative Fort St. James Holding, breached the standard of care expected of a reasonable and careful person in the circumstances.
7. Particulars of Hampton's, Fort St. James LP's, or Fort St. James Holding's negligence include, *inter alia*:

- (a) failing to keep the Equipment in good working order with all associated electrical, hydraulic, controls and optimization systems as of July 15, 2021 intact, pending the Equipment's removal from the Fort St. James Mill;
 - (b) failing to properly instruct its contractor, Allen's Scrap, to not remove, scrap, or otherwise handle the Equipment at the Fort St. James Mill; and
 - (c) failing to oversee Allen's Scrap's work at the Fort St. James Mill, and failing to ensure Allen's Scrap took all necessary care to ensure the Equipment would not be damaged where Allen's Scrap was working in the vicinity of the Equipment.
8. It was reasonably foreseeable that Teal Jones would suffer damages as a result of Hampton's, Fort St. James LP's, or Fort St. James Holding's negligence.
9. The Damages were caused in whole or in part by Hampton's, Fort St. James LP's, or Fort St. James Holding's breaches of the Agreement and negligence.
10. Hampton's, Fort St. James LP's, or Fort St. James Holding are vicariously liable for the negligence of and conversion and trespass to chattels committed by Allen's Scrap.

As Against Allen's Scrap

11. Allen's Scrap is liable in negligence and for conversion and trespass to chattels.
12. Allen's Scrap owed Teal Jones a duty of care working in the vicinity of its Equipment to ensure the Equipment would not be damaged. Allen's Scrap knew that Teal Jones' Equipment was on site at the Fort St. James mill in the area it was providing the Scrapping Services.
13. Allen's Scrap knew it was not contracted to handle the Equipment.

14. Allen's Scrap knew or ought to have known that failing to take reasonable care in and around the Equipment in the course of the Scrapping Services would cause damage to the Equipment and harm to Teal Jones.
15. Allen's Scrap breached the standard of care expected of a reasonable and careful person in the circumstances. Particulars of Allen's Scrap's negligence include, *inter alia*:
 - (a) Failing to take all reasonable care in the course of its contract work at the Fort St. James mill to distinguish equipment and materials subject to the Scrapping Services from the Equipment;
 - (b) Failing to take all reasonable care to ensure that its Scrapping Services work did not damage the Equipment; and
 - (c) Failing to take care all reasonable care near electrical components of the Equipment to avoid damage.
16. It was reasonably foreseeable that Teal Jones would suffer damages as a result of Allen's Scrap's negligence. The Damages were caused in whole or in part by Allen's Scrap's negligence.
17. In the alternative, Allen's Scrap intentionally caused the Damaged Equipment. Allen's Scrap deliberately handled and scrapped portions of the Equipment, including without limitation electrical components of the Equipment. Allen's Scrap intentionally damaged the Equipment, or was reckless or wilfully blind in dealing with the Equipment that the Damaged Equipment would occur.
18. Teal Jones had an immediate right to possession of the Equipment at the time Allen's Scrap handled, scrapped and damaged the Equipment
19. By handling and damaging portions of the Equipment Allen's Scrap committed the torts of conversion and trespass to chattels.
20. The Damages were caused in whole or in part by Allen's Scrap's tortious conduct.

Plaintiff's address for service: Dean Dalke
DLA Piper (Canada) LLP
Barristers & Solicitors
2800 Park Place
666 Burrard Street
Vancouver, BC V6C 2Z7

Fax number address for service (if any): 604.687.1612

E-mail address for service (if any): dean.dalke@dlapiper.com

Place of trial: Vancouver

The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

March 14, 2023
Dated _____ for  Signature of ☒ lawyer for plaintiff
DLA Piper (Canada) LLP (Dean Dalke)

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:

Claim in breach of contract and negligence for broken sawmill equipment.

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

Part 4: THIS CLAIM INVOLVES:

Negligence Act, R.S.B.C. 1996, c. 333

Court Order Interest Act, R.S.B.C. 1996, c. 79

No. ♦
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PLAINTIFF

AND:

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HOLDING ULC, FORT ST. JAMES FOREST
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DEFENDANTS

NOTICE OF CIVIL CLAIM

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