



~~CN~~ File No. **VLC-S-S-2210107**
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE CORPORATION OF THE CITY OF PRINCE GEORGE

PLAINTIFF

AND:

HDR ARCHITECTURE ASSOCIATES INC.

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, 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

1. The Plaintiff, The Corporation of the City of Prince George, (the “City”) is a municipal corporation incorporated pursuant to the *Local Government Act* and *Community Charter*, and has a business office at 1100 Patricia Boulevard, Prince George, British Columbia, V2L 3V9.
2. The Defendant HDR Architecture Inc. (the “Architect”) is an Ontario corporation registered in British Columbia as an extraprovincial company having an address for service of 2800 Park Place, 666 Burrard Street, Vancouver, BC, V6C 2Z7.
3. On November 9, 2018, the City entered into a contract (the “Contract”) with HDR for the provision of architectural services, including design services, for the City’s Downtown Pool Replacement (P18-082) project (the “Pool Project”).
4. The Contract was in the form of the RAIC Canadian Standard Form of Contract for Architect’s Services.
5. The Contract included the following relevant provisions:
 - (a) A10 – The Architect shall provide the Services described in Schedule A – Services....; and,
 - (b) GC 7.1 – The Architect shall perform the Services to the standard of care ordinarily exercised by other members of their profession under similar circumstances, at the same time and in the same or similar locale.
6. On October 16, 2020, the Architect issued Supplemental Instruction #010 which indicated that the paint and primer specification for various steel components for the Pool Project (the “Interior Steel Components”) was to be determined.
7. On November 8, 2020, the Architect issued Supplemental Instruction #010R1, being a revision to Supplemental Instruction #010, providing a paint and primer specification for the Interior Steel Components as “INT 5.1G Polyurethane Bigmented (over high build epoxy)”, with an epoxy primer.

8. On November 23, 2020, the Architect issued Supplemental Instruction #010R2, being a further revision to Supplemental Instruction #010, providing a paint and primer specification for the Interior Steel Components as “INT 5.1K Epoxy Modified Latex (over w.b. rust inhibitive primer)”, with waterborne anticorrosive primer – Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310.
9. In issuing Supplemental Instruction #010R2, the Architect relied on an out-of-date print copy of the MPI manual, which called for a single coat of primer, whereas the current online copy of the MPI manual, which called for two coats of primer.
10. Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 is an acrylic primer, not an epoxy primer.
11. At the time that the Architect specified the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310, the Architect was aware that primer has a shorter lifespan and greater ongoing maintenance and repair costs than an epoxy primer, with only a marginal up front cost savings.
12. Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 has a 30-day curing period, which is dependent on weather conditions.
13. At the time that the Architect specified the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310, the Architect was aware that:
 - (a) The Interior Steel Components were to be manufactured and primed in Calgary and Edmonton, Alberta, were to be transported by truck to the Pool Project site, and were to be stored outdoors at that site;
 - (b) At that time, weather conditions in Calgary and Edmonton, and at the Pool Project site, were winter weather conditions; and,
 - (c) Given the construction schedule for the Pool Project, there was a very tight timeline for the Interior Steel Components to be primed in Calgary and Edmonton, and transported to the Pool Project site to be erected.
14. Erection of the Interior Steel Components was to commence on December 14, 2020, in accordance with the construction schedule that the contractor retained by the City to construct the Pool Project (the “Contractor”) had provided to HDR.
15. On December 16, 2020, the Interior Steel Components began to arrive at the Pool Project site.
16. The Interior Steel Components were shipped to the Project site within less than a week of the components having been primed.

17. It was identified that much of the primed Interior Steel Components had begun to show signs of rusting, indicating that the primer applied to them had failed.
18. Approximately 25% of the primed Interior Steel Components were retained on the Project site and erected immediately, as it could be remediated on site after it was erected, while the remaining components were shipped off site for remediation.
19. On or about January 14, 2021, HDR admitted, through its representative, that the specification of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 was a mistake on HDR's part, having relied on outdated reference materials.
20. After discussions between the City, HDR, and the Contractor, HDR issued one or more change directives to the Contractor directing that the failing primed Interior Steel Components be remedied by transporting all primed components that had not yet been erected to local fabricating shops for all rust to be removed, and for the components to be reprimed using an epoxy primer similar to that specified by the Architect in Supplemental Instruction #010R, and for the failing primed components that had already been erected to be remediated on site in the same manner.
21. The remediation of the failing primed Interior Steel Components resulted in a 3 week delay in the Pool Project.
22. The failing primed Interior Steel Components were reprimed using an epoxy primer similar to that specified by the Architect in Supplemental Instruction #010R.
23. This epoxy primer, if originally used, would have increased the original cost of priming the Interior Steel Components by approximately \$120,000.00.
24. The delay cost incurred as a result of the failing primed Interior Steel Components was approximately \$100,000.00.
25. The net total cost incurred by the City in remediating the failing primed Interior Steel Components was approximately \$1,300,000.00.

Part 2: RELIEF SOUGHT

1. General damages;
2. Special damages;
3. Costs; and,
4. Such further and other relief as to this court seems just.

Part 3: LEGAL BASIS

1. HDR breached the terms of the Contract, including, without limitation, the terms of that agreement set out in paragraph 5 of Part 1: Statement of Facts of this Notice of Civil Claim in specifying the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 for the Interior Steel Components.
2. HDR was negligent in specifying the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 for the Interior Steel Components.
3. Particulars of HDR's breach of the Contract and negligence include, but are not limited to the following:
 - (a) The Architect based its specification for the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310 as the primer for the Interior Steel Components on an out-of-date print copy of the MPI manual, which called for a single coat of primer, compared to the current online copy of the MPI manual which called for two coats of primer;
 - (b) The Architect specified the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310, an acrylic primer, when the Architect knew, or ought to have known, that an epoxy primer was more appropriate given its greater durability, especially in the context of a pool setting;
 - (c) The Architect specified the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310, an acrylic primer, when the Architect knew, or ought to have known, that the use of that primer would result in a product that had a shorter lifespan and greater ongoing maintenance and repair costs than an epoxy primer, with only a marginal up front cost savings through the use of acrylic primer; and,
 - (d) The Architect specified the use of Sherwin-Williams Pro Industrial Pro-Cryl Universal Primer B66W00310, which has a 30-day curing period, which is dependent on weather conditions, when the Architect knew, or ought to have known, that given the tight timeline for delivery of the Interior Steel Components to meet the Pool Project schedule, the Interior Steel Components would be transported to the Pool Project site before they had an opportunity to fully cure, which given the prevailing weather conditions in Calgary, Edmonton, and Prince George at that time would expose the Interior Steel Components to wet conditions.

4. As a result of HDR's breach of the Contract and negligence, the City has suffered losses and damage.

Plaintiff's address for service:	c/o Sukhbir Manhas Young Anderson 1616 - 808 Nelson Street Box 12147, Nelson Square Vancouver, BC V6Z 2H2
Fax number address for service (if any):	604.689.3444
E-mail address for service (if any):	Not applicable.
Place of trial:	Vancouver, B.C.
The address of the registry is:	800 Smithe Street, Vancouver, B.C. V6Z 2E1

Date: 19/Dec/2022
[dd/mmm/yyyy]


Signature of
 Plaintiff lawyer for Plaintiff
Sukhbir Manhas

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:

Breach of Contract and Negligence

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

X 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

X none of the above

- do not know

Part 4: