



No. S-231791
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 HOLDINGS ULC,
FORT ST. JAMES FOREST PRODUCTS LIMITED PARTNERSHIP, and
0547309 B.C. LTD. doing business as ALLEN'S SCRAP & SALVAGE

DEFENDANTS

RESPONSE TO CIVIL CLAIM

FORM 2 (RULE 3-3(1))

FILED BY: Hampton Lumber Mills-Canada, Ltd. (“**HLMC**”), Fort St. James Forest Products Holdings ULC (“**FSJ ULC**”), and Fort St. James Forest Products Limited Partnership (“**FSJ LP**”, and together with HLMC and FSJ ULC, the “**Hampton Lumber Defendants**”)

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Hampton Lumber Defendants’ Response to Facts

1. The facts alleged in paragraphs 1, 3, 4, and 5 of Part 1 of the notice of civil claim are admitted.
2. The facts alleged in paragraph 2 and 8 through 47 (inclusive) of Part 1 of the notice of civil claim are denied.
3. The facts alleged in paragraphs 6 and 7 of Part 1 of the notice of civil claim are outside the knowledge of the Hampton Lumber Defendants.

Division 2 – Hampton Lumber Defendants’ Version of Facts

1. Unless expressly admitted herein, the Hampton Lumber Defendants deny each and every allegation of fact contained in the notice of civil claim filed by the Plaintiff in these proceedings on March 14, 2023 (the “**Claim**”).

2. The Plaintiff is a general partnership under the laws of the Province of British Columbia and is comprised of two companies incorporated under the laws of the Province of British Columbia, being Columbia River Shake & Shingle Ltd. and Teal Cedar Products Ltd.
3. The Defendant, FSJ LP, is the owner and operator of a sawmill located at 300 Takla Road, Fort St. James, British Columbia (the “**FSJ Mill**”) as well as all equipment and other assets associated with the FSJ Mill.
4. In or about August 2021, FSJ LP entered into an agreement with the Plaintiff, partly written and partly oral (the “**Agreement**”), whereby FSJ LP sold the following equipment to the Plaintiff:
 - (a) 1 Large Canter Line from Debarker Infeed to and including gang outfeed;
 - (b) 1 Small Canter Line from Debarker Infeed to and including gang outfeed;
 - (c) 1 McGehee Board Edger Line from unscrambler incline transfer to and including edger outfeed belt and transfer; and
 - (d) 1 Sawmill sorter line from infeed unscrambler incline transfer to and including haul out chains(collectively, the “**Equipment**”).
5. The Agreement contained a number of express and implied terms and conditions, including but not limited to the following:
 - (a) the Plaintiff would pay FSJ LP the sum of \$2,200,000 plus GST (the “**Purchase Price**”) for the Equipment;
 - (b) the Plaintiff would be solely responsible for the removal of the Equipment from the FSJ Mill;
 - (c) FSJ LP would give the Plaintiff, its agents and contractors access to the FSJ Mill so that they could remove the Equipment from the FSJ Mill;
 - (d) FSJ LP sold the Equipment to the Plaintiff and the Plaintiff accepted the Equipment on an “as is where is” basis;
 - (e) FSJ LP made no representations, warranties or promises as to the state, fitness or merchantability of the Equipment; and
 - (f) the Plaintiff accepted the risk of any damage that might occur to the Equipment in the process of removing it from the FSJ Mill.
6. In accordance with the terms of the Agreement, the Plaintiff paid the Purchase Price to FSJ LP, who in turn gave the Plaintiff, its agents and contractors access to the FSJ Mill to remove the Equipment commencing in the Fall of 2021.

7. Neither FSJ LP nor any of the other Hampton Lumber Defendants controlled, oversaw, managed or were directly involved in the removal of the Equipment from the FSJ Mill. Rather, the Plaintiff, its agents and contractors including, but not limited to, Parallel Welding Fabrication Ltd. (“**Parallel**”) controlled, managed, and oversaw the removal of the Equipment from the FSJ Mill.
8. None of the Hampton Lumber Defendants owed the Plaintiff any sort of duty of care in relation to the Equipment or its removal from the FSJ Mill as alleged in the Claim or at all. Rather, the only relationship between any of the Hampton Lumber Defendants and the Plaintiff was the contractual relationship between FSJ LP and the Plaintiff, the terms of which are described in paragraphs 7 and 8 above.
9. If the Equipment or any part thereof was damaged during its removal from the FSJ Mill or otherwise, as alleged in the Claim or at all, which allegation is denied, such damage was caused by the actions or inactions of the Plaintiff, its agents and contractors including, but not limited to, Parallel and not by the actions or inactions of the Hampton Lumber Defendants or anyone else in law for which they are responsible.
10. The Plaintiff has not suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible at law. Alternatively, if the Plaintiff has suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible, which is denied, then such loss, damage or expense was caused by or contributed to by the negligence of the Plaintiff, its agents and contractors and/or others including, but not limited to, Parallel.

Division 3 - Additional Facts

1. In or around the same time that the Plaintiff, its agents and contractors were removing the Equipment from the FSJ Mill, the Defendant, 0547309 B.C. Ltd., doing business as Allen’s Scrap & Salvage (“**Allen’s Scrap**”), was performing various demolition, scrap and related work at the FSJ Mill.
2. In performing its work at the FSJ Mill, Allen’s Scrap was fully responsible for the means, methods and processes of its work and agreed, among other things, to fully indemnify FSJ LP and its related entities and agents from any and all claims, demands, suits, actions and liability for damage or destruction to property at the FSJ Mill.
3. Further, in performing their work at the FSJ Mill, Allen’s Scrap and Parallel were responsible for coordinating and working together in their respective work. The Hampton Lumber Defendants had no role in the coordination of work between Allen’s Scrap and Parallel, or otherwise supervising their work.
4. None of the Hampton Lumber Defendants owed the Plaintiff any sort of duty of care in relation to the work performed by Allen’s Scrap at the FSJ Mill, as alleged in the Claim or at all. Alternatively, if any one or more of the Hampton Lumber Defendants owed the Plaintiff any sort of duty of care in relation to the work performed by Allen’s Scrap at the FSJ Mill, which is denied, the Hampton Lumber Defendants did not breach that duty as at all times they acted reasonably with respect to the work that Allen’s Scrap performed at the FSJ Mill.

5. If the Equipment or any part thereof was damaged during its removal from the FSJ Mill or otherwise and such damage was not caused by the actions or inactions of the Plaintiff, its agents and contractors including, but not limited to, Parallel, which allegation is denied, such damage was caused by the actions or inactions of Allen's Scrap and its subcontractors and not by the actions or inactions of the Hampton Lumber Defendants or anyone else in law for which they are responsible.
6. If the Plaintiff has suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible, which is denied, then such loss, damage or expense was caused or contributed to by the negligence of Allen's Scrap and its subcontractors and the Hampton Lumber Defendants are in no way responsible or liable to the Plaintiff for the negligence of Allen's Scrap.
7. If the Plaintiff has suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible, which is denied, the Plaintiff has failed to mitigate its damages.

Part 2: RESPONSE TO RELIEF SOUGHT

1. The Hampton Lumber Defendants consent to the granting of the relief sought in the following paragraphs of Part 2 of the Notice of Civil Claim: NONE.
2. The Hampton Lumber Defendants oppose the granting of the relief sought in the following paragraphs of Part 2 of the Notice of Civil Claim: ALL.
3. The Hampton Lumber Defendants ask that the claims against them be dismissed with costs.

Part 3: LEGAL BASIS

1. The Plaintiff's claims against the Defendants, HLMC and FSJ ULC, should be dismissed as:
 - (a) there is no contractual relationship between the Plaintiff and HLMC or FSJ ULC;
 - (b) neither HLMC nor FSJ ULC owed the Plaintiff any duty of care, contractual duty or any other duty in law or, alternatively, if either HLMC or FSJ ULC owed the Plaintiff any duty of care, contractual duty or other duty in law, which is denied, neither HLMC nor FSJ ULC breached that duty as they at all times acted reasonably with respect to the removal of the Equipment from the FSJ Mill; and
 - (c) if the Equipment or any part thereof was damaged during its removal from the FSJ Mill or otherwise, as alleged in the Claim or at all, which is denied, such damage was caused by the actions or inactions of the Plaintiff, its agents and contractors or, alternatively, by Allen's Scrap and its subcontractors and not by the actions or inactions of HLMC or FSJ ULC.
2. The Plaintiff's claims against FSJ LP should be dismissed, with costs payable by the Plaintiff to FSJ LP as:

- (a) FSJ LP did not breach the terms of the Agreement as the Equipment was purchased on an “as is where is” basis and without any representation, warranty or promise as to the state, fitness or merchantability of the Equipment;
 - (b) FSJ LP did not owe the Plaintiff any duty of care or other duty in law or, alternatively, if FSJ LP did owe the Plaintiff any duty of care or other duty in law, which is denied, FSJ LP did not breach that duty as it at all times acted reasonably with respect to the removal of the Equipment from the FSJ Mill; and
 - (c) if the Equipment or any part thereof was damaged during its removal from the FSJ Mill or otherwise, as alleged in the Claim or at all, which is denied, such damage was caused by the actions or inactions of the Plaintiff, its agents and contractors or, alternatively, by Allen’s Scrap and its subcontractors and not by the actions or inactions of FSJ LP.
3. In the alternative, if the Plaintiff has suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible, which is denied, then such loss, damage or expense was caused or contributed to by the negligence of the Plaintiff, its agents and contractors and/or others or, alternatively, by Allen’s Scrap and the Hampton Lumber Defendants specifically plead and rely on the provisions of the *Negligence Act*, RSBC 1996, c. 333.
4. In the further alternative, if the Plaintiff has suffered any loss, damage or expense for which any one or more of the Hampton Lumber Defendants are responsible, which is denied, the Plaintiff has failed to mitigate its damages.

(1) The Hampton Lumber Defendants’ address for service is:

HARPER GREY LLP
Barristers & Solicitors
3200 - 650 West Georgia Street
Vancouver, BC V6B 4P7
Telephone: 604 687 0411
Fax No: 604 669 9385
Attn: NLT/MJR/156304

Dated: May 9, 2023



HARPER GREY LLP
(Per Nigel L. Trevethan)
Lawyer for the Hampton Lumber Defendants

Name and address of lawyer:

HARPER GREY LLP
Barristers & Solicitors
3200 - 650 West Georgia Street
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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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TEAL-JONES GROUP

PLAINTIFF

AND:

HAMPTON LUMBER MILLS CANADA, LTD.,
FORT ST. JAMES FOREST PRODUCTS HOLDINGS
ULC,
FORT ST. JAMES FOREST PRODUCTS LIMITED
PARTNERSHIP, and 0547309 B.C. LTD. doing business
as ALLEN'S SCRAP & SALVAGE

DEFENDANTS

RESPONSE TO CIVIL CLAIM

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