

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**

SEP 28 2016

S-158812

Form 1 (Rule 3-1(1))



No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MARINE HARVEST CANADA INC.

PLAINTIFF

AND:

ALEXANDRA MORTON,
JOHN DOE, JANE DOE and ALL OTHER PERSONS
UNKNOWN TO THE PLAINTIFF OCCUPYING,
OBSTRUCTING, BLOCKING, OR PHYSICALLY IMPEDING
THE PLAINTIFF'S AQUACULTURE SITES

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,

- (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, Marine Harvest Canada Inc., is a British Columbia company with an address for service at 1600 – 1095 West Pender Street, Vancouver, British Columbia. Marine Harvest has a head office at 124 – 1334 Island Highway, Campbell River, British Columbia and carries on business of salmon aquaculture in British Columbia.
2. The defendant, Alexandra Morton, is an individual who resides at 390, 1st Street, Sointula, British Columbia.
3. The defendants John Doe, Jane Doe and Persons Unknown to the plaintiff are individuals whose identity and place of residence are not known to the plaintiff.

Marine Harvest's Facilities

Glacier Falls

4. Marine Harvest is the holder of Licence of Occupation No. 848495 issued by the Province of British Columbia. The Licence of Occupation grants Marine Harvest a non-exclusive licence to occupy approximately 21.5 hectares of unsurveyed Crown foreshore and land covered by water being part of the bed of Tribune Channel, Range 1, Coast District ("Glacier Falls") for salmon aquaculture.

5. Marine Harvest is also the holder of Marine Finfish Aquaculture Licence No. AQFF 115309 2016/2022 issued by Canada. The Aquaculture Licence confers the authority to carry out aquaculture activities, including the installation of certain infrastructure, at Glacier Falls. The Aquaculture Licence requires Marine Harvest to ensure adherence to biosecurity procedures.

Midsummer Island

6. Marine Harvest is the holder of a Licence of Occupation No. 848492, issued by the Province of British Columbia on June 20, 2013. The Licence of Occupation grants Marine Harvest a non-exclusive licence to occupy approximately 44.4 hectares of unsurveyed Crown foreshore and land covered by water being part of the bed of Spring Passage, Range 1, Coast District (“Midsummer Island”) for finfish aquaculture purposes on the terms and conditions set out therein.
7. Marine Harvest is also the holder of a Marine Finfish Aquaculture Licence No. AQFF 115233 2016/2022 issued by Canada. The Aquaculture Licence confers the authority to carry out aquaculture activities, including the installation of certain infrastructure, at Midsummer Island. The Aquaculture Licence requires Marine Harvest to ensure adherence to biosecurity procedures.

Sonora Island

8. Marine Harvest is the holder of a Licence of Occupation No. 883561, issued by the Province of British Columbia on July 5, 2012. The Licence of Occupation grants Marine Harvest a non-exclusive licence to occupy approximately 50 hectares of unsurveyed Crown foreshore and land covered by water being part District Lot 1713, Sayward District (“Sonora Island”) for finfish aquaculture purposes on the terms and conditions set out therein.
9. Marine Harvest is also the holder of a Marine Finfish Aquaculture Licence No. AQFF 113644 2015/2016 issued under the Canada *Fisheries Act*. The Aquaculture Licence confers the authority to carry out aquaculture activities, including the installation of

certain infrastructure, at Sonora Island. The Aquaculture Licence requires Marine Harvest to ensure adherence to biosecurity procedures.

Events of August 13, 2016

10. On or about August 13, 2016, at about 9:30 a.m., the defendants entered upon the Glacier Falls facility, without the permission of Marine Harvest and without adhering to biosecurity procedures.
11. The defendants ignored Marine Harvest's demand to leave the facility and instead walked upon the facility, inspected the facility and tampered with equipment owned by Marine Harvest and used in the course of its aquaculture activities.
12. After leaving the facility, the defendants deployed a drone aircraft over the facility and a diver under it.
13. The defendants' conduct interfered with Marine Harvest's use and enjoyment of its property.
14. The said conduct amounts to a trespass to chattel, trespass to land pursuant to the *Land Act* and private nuisance.

Events of August 23, 2016

15. On or about August 23, 2016, at about 1:30 p.m., a group of eight vessels approached the Midsummer Island facility.
16. The defendants entered upon the Midsummer Island facility, without the permission of Marine Harvest and without adhering to biosecurity procedures.
17. The defendants ignored Marine Harvest's demand to leave the facility and instead walked upon the facility, inspected the facility and tampered with equipment owned by Marine Harvest and used in the course of its aquaculture activities.
18. The defendants also submerged an object or objects into the water within the facility while others flew drone aircraft above the facility. The defendants remained on the site

for approximately two hours and ignored Marine Harvest's instruction to leave and to adhere to its biosecurity procedures.

19. The defendants' conduct interfered with Marine Harvest's use and enjoyment of its property.
20. The said conduct amounts to a trespass to chattel, trespass to land pursuant to the *Land Act*, and private nuisance.

Events of August 28, 2016

21. On or about August 28, 2016, the defendants approached the Sonora Island facility by vessel.
22. The defendants ran their vessel up to the facility and intentionally tampered, directly or indirectly, with equipment on the facility.
23. The defendants' conduct interfered with Marine Harvest's use and enjoyment of its property.
24. The said conduct amounts to trespass to chattel and to private nuisance.

Part 2: RELIEF SOUGHT

25. The plaintiff claims:
 - (a) damages;
 - (b) an interim and permanent injunction; and
 - (c) costs.

Part 3: LEGAL BASIS

26. The plaintiff is lawfully entitled to occupy Crown land under a licence of occupation and is thereby entitled to take proceedings against any person for trespass to the interest in the land. In this regard the plaintiff relies on s. 65 of the *Land Act*, R.S.B.C. 1996, c. 245.
27. The defendants' actions were a direct interference with infrastructure owned and/or in the possession of Marine Harvest and were without lawful justification. The defendants' actions thereby constitute the tort of trespass to chattel and/or trespass.
28. The defendants' actions were a substantial and unreasonable interference with the right to carry out its licenced and lawful business. The defendants' actions thereby constitute the tort of private nuisance.


Plaintiff's address for service:

Fax number address for service: 604-685-6494

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street

Date: September 22, 2016



Signature of
 Filing party Lawyer for filing party
Chris J. Watson

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:

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:

Land Act, R.S.B.C. 1996, c. 245