

NOV 07 2018



No. S-189965
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

IMH 415 & 435 MICHIGAN APARTMENTS LTD., IMH POOL XIV LP
and IMH GP XIV LTD.

PLAINTIFFS

AND:

UNIQUE RESTORATION LTD., WYNSPEC MANAGEMENT INC.,
ZGEMI INC. and HARCONBRIDGE CONSTRUCTION LTD.,

DEFENDANTS

AND:

WYNSPEC MANAGEMENT INC., ZGEMI INC.,
HARCONBRIDGE CONSTRUCTION LTD., JERRY WAKEFIELD CONSTRUCTION INC.,
GREENPOINT ABSESTOS REMEDIATION SERVICES LTD. and WESTERN
ENVIRONMENTAL SERVICES INC. aka WESTERN ENVIRONMENTAL SERVICES LTD.
dba "WESTERN ENVIRONMENTAL SERVICES"

THIRD PARTIES

THIRD PARTY NOTICE

Filed by: Unique Restoration Ltd. (the "**claiming party**")

To: Wynspec Management Inc., ZGEMI Inc., Harconbridge Construction Ltd., Jerry
Wakefield Construction Inc., GreenPoint Asbestos Remediation Services Ltd. and
Western Environmental Services Inc. aka Western Environmental Services Ltd.
dba "Western Environmental Services" (the "**Third Parties**")

THIS ACTION has been brought by the plaintiff(s) against the defendant(s) for the relief set out
in the notice of civil claim filed in this action.

TAKE NOTICE that the claiming party claims against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND TO this claim against you, or if you have a set-off or
counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response
to third party notice in Form 6 in the above-named registry of this court within the time for response
to third party notice provided for below and SERVE a copy of the filed response to third party
notice on the claiming party's address for service.

YOU OR YOUR LAWYER may file the response to third party notice.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to third party notice within the time for response to third party notice described below.

Time for response to third party notice

A response to third party notice must be filed and served on the claiming party,

- (a) if you were served with the third party notice anywhere in Canada, within 21 days after that service,
- (b) if you were served with the third party notice anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the third party notice anywhere else, within 49 days after that service, or
- (d) if the time for response to third party notice has been set by order of the court, within that time.

CLAIM OF THE CLAIMING PARTY

Part 1: STATEMENT OF FACTS

1. Unless otherwise defined herein, Unique adopts the defined terms used in the Notice of Civil Claim of the Plaintiffs dated September 12, 2018 (the “**Notice of Civil Claim**”). Unique adopts the defined terms without admitting to any of the allegations resulting there from.
2. Unique pleads, reiterates and relies on the admissions, facts, allegations and defined terms set out in its Response to Civil Claim filed in this proceeding.
3. Particulars of the roles of Wynspec, ZGEMI and Harconbridge in the renovation of the Michigan Properties is set out in the Notice of Civil Claim.
4. Jerry Wakefield Construction Inc. (“**Jerry Wakefield**”) is a company incorporated under the laws of British Columbia with a registered and records office located at PO Box 997, Victoria, BC, V8W 2S8.
5. Jerry Wakefield was engaged by Starlight and the Michigan Owners to perform interior suite renovations at the Michigan Properties.
6. GreenPoint Asbestos Remediation Services Ltd. (“**GreenPoint**”) is a company incorporated under the laws of British Columbia with a registered and records office located at 103-13443 78 Avenue, Surrey, BC V3W 0A8.
7. Western Environmental Services Inc. aka Western Environmental Services Ltd. dba “Western Environmental Services” is a company incorporated under the laws of Alberta

with a registered and records office located at 500 – 1811 4th Street SW, Calgary, AB, T2S 1W2.

8. Unique subcontracted to GreenPoint and Western Environmental certain asbestos remediation work which formed part of the Work to be performed by Unique under the Building Envelope Contract.
9. The Plaintiffs claim is for alleged breaches of the Building Envelope Contract and negligence regarding migration of construction dust and debris containing asbestos fibers and other hazardous materials into the interior of the Michigan Properties during the renovation of the Michigan Properties and resultant loss and damage.
10. Unique denies any liability, breach of the Building Envelope Contract or breach of any duty owing to the Plaintiffs in respect of the Plaintiff's claim and disputes the Plaintiff's claim on the grounds pled in Unique's Response to Civil Claim.
11. Unique expressly denies that the Plaintiffs have suffered any loss, damage or expense, as alleged or at all.
12. Alternatively, Unique says that if the Plaintiffs have suffered any loss, damage or expense, which is not admitted but is expressly denied, then any such loss, damage or expense did not result from any fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty, by Unique or by any agents or employees or anyone for whom Unique is responsible.
13. Unique further says that any loss, damage or expense suffered by the Plaintiffs was caused, aggravated or contributed, in whole or in part, to by the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of the Third Parties or any one of them.
14. Particulars of the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of Wynspec, ZGEMI and Harcondridge are set out in the Notice of Civil Claim and Unique's Response to Civil Claim.
15. Particulars of the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of Jerry Wakefield, GreenPoint and Western Environmental are as follows:
 - (a) hiring or engaging incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known they lacked the requisite skills, qualifications or experience to do so;
 - (b) entrusting incompetent servants, agents or employees to work on the renovations to the Michigan Properties when they knew or ought to have known that they did not have the requisite knowledge and/or experience to do so;
 - (c) failing to adequately supervise incompetent servants, agents or employees when they knew or ought to have known that they required supervision;

- (d) failing to adequately instruct or supervise their employees, agents or servants;
- (e) failing to properly implement, operate or monitor the abatement of hazardous materials, including asbestos fibers;
- (f) failing to take any steps to prevent the migration of dust, debris, asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work into the interior of the Michigan Properties;
- (g) failing to abate the accumulation of dust and debris containing asbestos fibers and other hazardous substances created by work outside the scope of the Unique Abatement Work in the interior of the Michigan Properties;
- (h) failing to properly assess the risk of further migration of dust and debris containing asbestos fibers and other hazardous substances into suites in the Michigan Properties and take necessary steps to prevent the further migration of such dust and debris into 435 Michigan during work outside the scope of the Unique Abatement Work; and
- (i) such further and other particulars as they become known to Unique.

Part 2: RELIEF SOUGHT

1. A declaration that the Plaintiff's losses, if any, were caused, aggravated or contributed, in whole or in part, to by the fault of the Plaintiff and/or the Third Parties and each of them.
2. A declaration as to the degree of fault as between the Plaintiff, Unique and each of the Third Parties.
3. A declaration that Unique is not responsible or liable to the Plaintiff for that portion of the Plaintiff's losses or damages which is apportioned to the fault of other parties.
4. A declaration that Unique is entitled to contribution and indemnity to the degree that the Third Parties, or any of them, are found by the Court to have been at fault in respect to the Plaintiff's claim, for any amount that may be found due from Unique to the Plaintiff, including interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79 as amended, plus any costs to the Plaintiff, as well as for the amount of Unique's costs in defending the Plaintiff's action and prosecuting this Third Party proceeding.
5. Judgment against each of the Third Parties for any amount that may be found due from Unique to the Plaintiff including interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79 as amended.
6. Judgment against each of the Third Parties for the amount of any costs that Unique may be judged liable to pay the Plaintiffs, and the amount of Unique's own costs of defending this action and proceeding against each of them.
7. Such further and other relief as this Honourable Court deems just.

Part 3: LEGAL BASIS

1. The Plaintiff's claim against the Defendants are set out in the Notice of Civil Claim.
2. Unique repeats and relies on the contents of its Response to Civil Claim filed in this proceeding.
3. Unique expressly denies that the Plaintiff suffered any loss, damage or expense as a result of any fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty, by Unique or by any agents or employees or anyone for whom Unique is responsible and says that any such loss, damage or expense was caused, aggravated or contributed, in whole or in part, to by the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of the Third Parties or any one of them.
4. Particulars of the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of Wynspec, ZGEMI and Harcondridge are set out in the Notice of Civil Claim and Unique's Response to Civil Claim.
5. Particulars of the fault, negligence, breach of duty, breach of statutory duty and/or breach of contract, or breach of warranty of Jerry Wakefield, GreenPoint and Western Environmental are set out in paragraph 13 (Part 1) herein.
6. Unique pleads and relies upon the provisions of the *Negligence Act*, RSBC 1996, c. 333.

Address for service of claiming party:

McMillan LLP
Suite 1500 – 1055 West Georgia Street
P.O. Box 11117
Vancouver, BC V6E 4N7
Attention: Daniel Shouldice

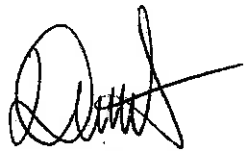
Fax number address for service (if any):

n/a

E-mail address for service (if any):

daniel.shouldice@mcmillan.ca

Date: November 7, 2018



Signature of lawyer for Unique Restoration Ltd.

Daniel Shouldice

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.

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Defendant, Unique Restoration Ltd., claims the right to serve this pleading on the Third Parties outside British Columbia on the ground that this action concerns a tort committed in British Columbia.