



NO. *Court File No.* VLC-S-S-187573
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MARY HELEN HARE

PLAINTIFF

AND:

UNIVERSITY OF BRITISH COLUMBIA

DEFENDANT

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) 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(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

Parties

1. The Plaintiff, MARY HELEN HARE (hereinafter the “Plaintiff”) has an address for delivery of 2020 – 650 West Georgia Street, Vancouver, British Columbia.
2. The Defendant, UNIVERSITY OF BRITISH COLUMBIA (“UBC”), is a university incorporated under the *British Columbia University Act*, SCB 1908, c. 53, and continued under the *University Act*, RSBC 1996, c. 468, and has an office for service located at 6328 Memorial Road, Vancouver, British Columbia.
3. At all material times, UBC was the owner and occupier of Salish House a student dormitory located in Totem Park Student Residence in the University Endowment Lands, 2525 West Mall, Vancouver, British Columbia, legally described as Parcel Identifier 015-940-357, District Lot 4805, Group 1, New Westminster District (the “Property”).
4. At all material times, UBC was the “occupier” of the Property as defined by section 1 of the *Occupiers Liability Act*, RSBC 1996, c. 337.

Incident

5. On or about October 4, 2016, the Plaintiff was a first-year student at the University of British Columbia, and was living in room 350 on the third floor of Salish House, a student residence at UBC (the “Dorm Room”).
6. On October 4, 2016, the Plaintiff was in her Dorm Room when Thamer Hameed Almestadi, another first-year student at UBC (“Almestadi”) who was living in a shared room on the fourth floor of Salish House, entered the Dorm Room carrying a knife, and violently attacked the Plaintiff by slashing her throat with the knife and choking her (the “Assault”).

Injuries

7. As a result of the aforesaid negligence and/or breach of statutory duty, the Plaintiff suffered and will continue to suffer personal injuries, the particulars are as follows:
 - (a) lacerations to her throat;
 - (b) abrasions to her throat;
 - (c) cut to her shoulder;
 - (d) injury to her trachea and larynx;
 - (e) scarring to her throat and shoulder;
 - (f) depression;

- (g) anxiety;
 - (h) emotional upset;
 - (i) post-traumatic stress disorder;
 - (j) such further and other injuries as will be shown at trial.
8. The injuries, loss, and damage sustained by the Plaintiff have caused and continue to cause the Plaintiff pain, suffering, loss of enjoyment of life and permanent physical and mental disability.
 9. The Plaintiff is a beneficiary as defined in Section 1 of the *Health Care Costs Recovery Act*, [SBC 2008] c. 27, who has received health care services as defined in s. 2(1) of the said *Act* and who claims in this act for the past cost and future cost of health care services required as a result of the negligence of UBC pursuant to s. 3 of the said *Act*.

Part 2: RELIEF SOUGHT

1. General damages for pain and suffering and loss of enjoyment of life;
2. Special damages for medical expenses, rehabilitation expenses, medications, prescriptions, mileage, supplies, therapies and equipment;
3. Damages for past wage loss;
4. Damages for future wage loss and loss of income earning capacity;
5. Damages for future care;
6. Damages for management fee;
7. Damages for tax gross up;
8. In trust claim for family and friends;
9. Costs of this action;
10. Damages pursuant to the *Health Care Costs Recovery Act*, [SBC 2008] c. 27; and
11. Such further and other relief as to this Honourable Court may deem fair.

Part 3: LEGAL BASIS

1. UBC knew or should have been aware of the risk of forced entry into rooms and assaults and/or persons entering student residence dorm rooms.
2. UBC knew or should have been aware of the need for the installation of additional security bolts, chains, bars, latches, or stoppers (“Locking Mechanisms”) and/or door viewers (“Door Viewers”) on the dorm room doors.
3. UBC knew or should have been aware that the additional Locking Mechanisms and/or Door Viewers were necessary for dorm room doors to make them reasonable safe for occupants.
4. The Assault occurred due to the negligence of UBC, particulars of which are as follows:
 - (a) failing to take any, or any reasonable, care for the Plaintiff’s safety while knowing, or having ought to have known that she was at risk of imminent danger, violence, and/or threat;
 - (b) failing to install or properly install additional Locking Mechanisms on the hallway door of the Dorm Room (the “Door”) that would allow the Door to be opened safely while remaining locked and prevent unwanted entry of potential assailants;
 - (c) failing to install or properly install a Door Viewer on the Door that would allow the Plaintiff to observe outside the Door in a safe manner;
 - (d) failing to properly inspect and/or maintain the Locking Mechanism and/or the Door Viewer on the Door;
 - (e) leaving the Locking Mechanism and/or the Door Viewer on the Door in a state whereby they were ineffective, allowing unwanted entry and causing a security risk;
 - (f) failing to repair and/or replace the Locking Mechanism and/or the Door Viewer on the Door when they knew or should have known they would allow unwanted entry and cause a security risk; and
 - (g) such further and other particulars as counsel may advise.
5. The Plaintiff pleads the provisions of the *Negligence Act*, RSBC. 1996, c. 333 and amendments thereto.
6. The Plaintiff pleads the provisions of the *Occupiers Liability Act*, R.S.B.C. 1996, c. 337 and amendments thereto.

Plaintiff’s address for service: Murphy Battista LLP
2020 – 650 West Georgia Street
Vancouver, British Columbia V6B 4N7

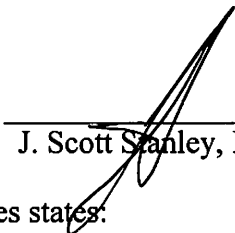
Fax number address for service (if any): (604) 683-5084

E-mail address for service (if any): None

Place of trial: Vancouver, British Columbia

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

Date: July 6, 2018



J. Scott Stanley, Lawyer for plaintiff

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:

This file involves an assault that occurred on October 4, 2016 at property located at 2525 West Mall in Vancouver, British Columbia. The property was owned and occupied by UBC at all material times. The claim is against UBC in negligence under the *Occupiers Liability Act*.

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 of 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: ENACTMENTS RELIED ON

1. *Negligence Act*, R.S.B.C. 1996, c. 333
2. *Occupiers Liability Act*, RSBC 1996, c. 337
3. *Court Order Interest Act*, RSBC 1996, c. 79
4. *Health Care Costs Recovery Act*, [SBC 2008] c. 27

THIS Notice of Civil Claim is prepared by J. Scott Stanley of the law firm Murphy Battista LLP, counsel for the Plaintiff, whose address for delivery is Suite 2020 – 650 West Georgia Street, Vancouver, BC V6B 4N7 (File #H924)