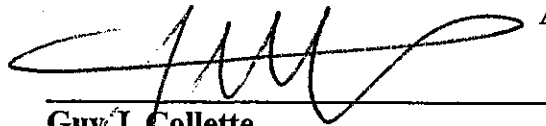
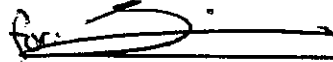


ORIGINAL NOTICE OF CIVIL CLAIM FILED JUNE 1, 2012  
FURTHER AMENDED NOTICE OF CIVIL CLAIM FILED NOVEMBER 19, 2014

AMENDED PURSUANT TO RULE 6-1(1)(b)(ii)



Guy J. Collette  
Counsel for the Plaintiff



Ravi R. Hira, Q.C.  
Counsel for the Defendants

SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY

NO. S123976  
VANCOUVER REGISTRY

NOV 14 2016

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETW



UFUK ARI

PLAINTIFF

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

DEFENDANTS

Brought Under the *Class Proceedings Act*

2<sup>nd</sup> FURTHER AMENDED 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 reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, 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, Ufuk Ari, resides in the City of Vancouver, in the Province of British Columbia.
2. The Defendant, Insurance Corporation of British Columbia, is a crown corporation constituted under the laws of British Columbia with its head office located at 151 West Esplanade, North Vancouver, in the Province of British Columbia.
3. This action concerns breaches of the *Privacy Act*, R.S.B.C. 1996 c. 73 by an employee of the Defendant.

4. The Plaintiff works as a construction sub-contractor and is the holder of a British Columbia driver's license and policies of insurance with the Defendant pursuant to the *Insurance (Vehicle) Act*, R.S.B.C. 1996 c.231 and Regulations thereto.

5. At all material times, the Defendant was a crown corporation operating a monopoly automobile insurance scheme in British Columbia. In order for any resident of British Columbia including the Plaintiff to obtain a driver's licence or insure an automobile it was necessary and mandatory that personal information be disclosed to the defendant.

6. In January 2012, two plain clothes RCMP officers attended the Plaintiff's home and questioned him respecting his whereabouts on particular dates in 2010 including whether he was in New Westminster on or about those dates. The police officers said they were investigating a crime but did not say what the crime was or if the Plaintiff was a suspect. They said that if they needed more information they would be back, then they left.

7. The Plaintiff heard nothing more about the investigation or the reasons for the interrogation by the police until he received a letter from the Defendant dated March 1, 2012. The letter advised that on June 17, 2010 an ICBC employee (the "Employee") viewed the Plaintiff's personal information "without an apparent business purpose". The letter went on to advise that the Defendant notified the RCMP of this unauthorized access on January 12, 2012 and the RCMP advised the Defendant that this unauthorized access may be related to an ongoing criminal investigation.

8. The Employee as part of her legitimate employment duties was required to access the personal information of the Defendant's customers when necessary as a function of the Employee's employment duties. In furtherance of those employment duties the Defendant conferred upon the Employee the authority to access the personal information of the Defendant's customers if necessary in the execution of her employment duties. The power to access personal information conferred on the Employee by the Defendant coupled with the nature of the Employee's duties created the risk of unauthorized access to ~~private~~ the personal information by the Employee.

9. In or about 2010 and 2011, at least 65 individuals including the Plaintiff have had their personal information, wilfully and without claim of right, accessed by the Employee without a legitimate or authorized purpose, many of whom have had their premises, vehicles and other personal possessions made the targets of shootings, arson and other property damage. The Employee used the unlawfully obtained personal information herself, or disclosed the personal information to unauthorized third parties, who used that personal information to identify, locate and target those individuals and/or their families and other residents of their premises (the "Class Members").

10. The Plaintiff brings this action on his own behalf and on behalf of the Class Members and seeks damages pursuant to the *Privacy Act*.

11. The Plaintiff alleges that as a result of the Employee's unauthorized access to his the personal information by ~~the Employee his privacy was breached and he has~~ the Plaintiff and the Class Members suffered damages and loss, including:

- a) Psychological injury and emotional upset;
- b) expenses for alternate accommodation;
- c) expenses for security or additional security;
- d) property damage;
- e) loss of past and future income; and
- f) loss of enjoyment of life.

12. The Plaintiff states that the conduct of the Employee, for which the Defendant is vicariously liable, was wilful, arrogant, callous, and high-handed and constituted a gross violation of the privacy rights of the Plaintiff and the Class Members. The plaintiff submits that this is therefore an appropriate case for punitive, aggravated and/or exemplary damages.

## Part 2: RELIEF SOUGHT

1. The Plaintiff claims against the Defendant for:
  - a) General Damages;
  - b) Special Damages;
  - c) Damages pursuant to the *Privacy Act*;
  - d) Aggravated damages;
  - e) Punitive and exemplary damages;
  - f) Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996 c. 79;
  - g) Costs
  - h) Such further and other relief as this honourable Court may deem meet.
  
2. The Plaintiff seeks an order certifying this action as a class proceeding and appointing him as representative plaintiff under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

## Part 3: LEGAL BASIS

1. The Employee, wilfully and without claim of right, breached the Plaintiff's and the Class Members' right to privacy pursuant contrary to, the *Privacy Act*, R.S.B.C. 1996 c. 73. At all material times hereto, the Defendant was the employer of the Employee who, as a function of her employment duties, had access to its data bases containing the private personal information of its customers including the Plaintiff, and is therefore vicariously liable for the breaches of privacy committed by the Employee, while employed by the Defendant.
  
2. At all material times hereto, the Employee who breached the Plaintiff's and the Class Members' privacy by accessing his personal information for an unauthorized and improper purpose, was hired, trained, and worked under, the direction and control of the Defendant; and, as a function of her employment duties, if necessary in the execution of her duties, was conferred the authority to access the personal information collected by the Defendant.

3. The Defendant has a history of its employees or agents accessing individuals' private personal information without authority and for an improper purpose and has a pattern of failing to take any steps to prevent such breaches.

4. When the Defendant authorized and enabled the Employee to access personal information contained in its data banks it created or enhanced the risk that the Employee would wrongfully access its customers' personal information.

5. The conduct of the Employee and the Defendant's conduct is of such a deliberate and outrageous nature as to be deserving of punishment.

6. This action is brought on behalf of the Plaintiff and on behalf of ~~a proposed class of persons with similar claims~~ the Class Members pursuant to the provisions of the *Class Proceedings Act*, R.S.B.C. 1996 c. 50.

Plaintiff's address for service: c/o Collette Parsons Harris  
Trial Lawyers  
~~#605—1080 Howe Street~~  
#1750-700 W. Georgia St.  
Vancouver, BC ~~V6Z 2T4~~ V7Y 1B6

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, BC

Date: June 1, 2012

"Guy J. Collette"  
Signature of  plaintiff  lawyer  
for plaintiff(s)  
GUY J. COLLETTE

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 is an action brought under the *Class Proceedings Act* for damages arising from a series of breaches of privacy by employees or agents of the Defendant during 2010 and 2011.

### Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

- a motor vehicle accident
- personal injury, other than one arising from a motor vehicle accident
- a dispute about real property (real estate)
- a dispute about personal property
- the lending of money
- the provision of goods or services or other general commercial matters
- an employment relationship
- a dispute about a will or other issues concerning the probate of an estate
- a matter not listed here

### Part 3: ENACTMENTS RELIED ON

1. *Insurance (Vehicle) Act*, R.S.B.C. 1996 c. 231;
2. *Privacy Act*, R.S.B.C. 1996 c. 373
3. *Freedom of Information and Protection of Privacy Act*, R.S.B.C. c. 165 and
4. *Court Order Interest Act*, R.S.B.C. 1996 c.79