



NO. 231912  
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

SURINDER KAUR BRAR

PLAINTIFF

JACK FENG

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(s).

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(s) 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,

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- (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(S)

#### Part 1: STATEMENT OF FACTS

##### The Parties

1. The Plaintiff, Surinder Brar (the "Plaintiff"), resides at 23898-40<sup>th</sup> Avenue, in the City of Langley, in the Province of British Columbia, V2Z 2J9.
2. The Defendant, Jack Feng, is a Claims Examiner, employed by the Insurance Corporation of British Columbia (hereinafter referred to as 'ICBC').
3. By a policy of insurance, for valuable consideration, ICBC agreed to provide the Plaintiff with no fault benefit coverage pursuant to Part 7 of the Insurance (Vehicle) Regulation.
4. It was a fundamental term of the Policy that ICBC and the Defendant would act in the utmost good faith and fair dealing with the Plaintiff, pursuant to the contract which is a contract *uberrimae fidei*.
5. The Plaintiff has been, and remains, "Totally Disabled", and the Defendant has arbitrarily and capriciously failed to promptly assess and pay the Plaintiff Part 7 Disability Benefits, has acted unfairly, unreasonably, negligently, has tortiously interfered with the contract between the Plaintiff and ICBC, and has breached his duty of utmost good faith to the Plaintiff.

#### PARTICULARS OF NEGLIGENCE, BAD FAITH, AND TORTIOUS CONDUCT

6. The Defendant has acted in Bad Faith, and acted wantonly toward the Plaintiff, PARTICULARS OF WHICH ARE AS FOLLOWS:
  - a) Failing to thoroughly investigate the Insured's claim and to fully inquire into all possible bases that might support their Insured's claim.
  - b) Failing to objectively evaluate the Insured's claim;
  - c) Failing to contact the Insured's treating physicians, where any clarification may have been required, or obtain necessary opinions or reports to assist the Plaintiff;
  - d) Failing to fairly, reasonably, fully, and properly investigate the Plaintiff's matter;

- e) Failing to treat the Plaintiff's interests with equal regard to ICBC's own interests;
- f) Failing to act fairly and reasonably;
- g) Failing to assist the Plaintiff with her claim;
- h) Failing to pay benefits in a timely manner;
- i) Failing to properly and promptly evaluate the claim;
- j) Failing to provide any reasonable explanation for delay in assessing the Plaintiff's claim;
- k) Such further particulars as Counsel may advise.

#### INTENTIONAL INDUCEMENT OF BREACH OF CONTRACT & INTENTIONAL INTERFERENCE WITH CONTRACT

- 7. The Defendant intentionally induced ICBC to breach the policy of insurance, and intentionally interfered with the performance of the contract, thus breaching his duty of good faith and fair dealing to the Plaintiff, which conduct represents an independent actionable wrong irrespective of any contractual entitlement to disability benefits.

#### GAIN SHARING & FINANCIAL CONFLICT OF INTEREST

- 8. The Defendant is a member of COPE 378, a Labour Union, which Union has signed a Collective Agreement with ICBC, which Agreement provides "GAIN SHARING", or a distribution of profits to its employees upon certain financial targets being met, which is a conflict of interest in a First Party Disability situation.
- 9. At all relevant times, the Defendant had the responsibility of administering the Plan of Insurance, and paying benefits from his employer's funds; at all relevant times, the Defendant's productivity, promotions and consequential compensation amounted to an inherent conflict of interest, particulars of which are solely and entirely within the knowledge of the Defendant.

#### AGGRAVATED DAMAGES

- 10. The Defendant, well knowing the Plaintiff's mental, emotional and financial situation, has continued to wrongfully deny the Plaintiff benefits, in consequence of which the Plaintiff has sustained additional mental and emotional stress, anxiety, worry, upset, economic hardship and additional pecuniary loss, in having to retain Legal Counsel and incur legal expense to obtain benefits lawfully due to the Plaintiff, all in consequence of the Defendant's Bad Faith and Wrongful Conduct, which conduct has materially aggravated the Plaintiff's circumstances and condition.

#### PUNITIVE & EXEMPLARY DAMAGES

- 11. The Defendant has conducted himself reprehensibly and in a willful and conscious disregard for the Plaintiff's contractual rights, subjecting the Plaintiff to cruel and unjust hardship, intentionally depriving the Plaintiff of disability benefits, acting in BAD FAITH toward the Plaintiff, which conduct was willful, wanton, and conduct designed to make an

economic benefit for the Defendant, which conduct necessitates the reproval by this Honourable Court.

The Plaintiff will seek Punitive Damages.

**Part 2: RELIEF SOUGHT**

1. DAMAGES
2. AGGRAVATED DAMAGES.
3. PUNITIVE DAMAGES.
4. INTEREST PURSUANT TO THE COURT ORDER INTERESTS ACT, R.S.B.C. 1979, c. 76, as amended.
5. COSTS OF THIS ACTION.

**Part 3: LEGAL BASIS**

1. The Defendant owed the Plaintiff a duty of good faith and fair dealing, pursuant to a group Policy of Insurance, which they breached. This is an action in Tort.
2. The Defendant induced a breach of the contract and intentionally interfered with the Plaintiff's contract with the ICBC. This, too, is an action in Tort.

Plaintiff's address for service:

Brij Mohan & Associates  
Barristers & Solicitors  
#205, 12830 80<sup>th</sup> Avenue  
Surrey, B.C. V3W 3A8

Fax number address for service:

(604) 598-0588

E-mail address for service:

Service by email not accepted.

Place of trial:

NEW WESTMINSTER

The address of the Registry is:

The Law Courts, Begbie Square  
651 Carnarvon Street  
New Westminster, B.C. V3M 1C9

Date: 25/Sep/2020

  
BRIAN YLI,  
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
    - (i) 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:

The Plaintiff claims against the Defendant for benefits arising pursuant to a contract of insurance and under Part 7 of the Regulations made pursuant to the *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231 and amendments thereto.

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

A personal injury arising out of:

☒ a motor vehicle accident

### Part 3: THIS CLAIM INVOLVES:

☒ none of the above

### Part 4: ENACTMENTS RELIED ON:

1. *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231 and amendments thereto;
2. *Court Order Interest Act*, R.S.B.C. 1996, c. 79 and amendments thereto; and
3. Such other enactments which will be made known to the Defendants during the course of the proceedings.