

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

CHERNA ROSENBERG

Plaintiff

- and -

**TURTLE ISLAND HUMANITARIAN AID c.o.b. CANADIAN BOAT TO GAZA and
ALTERNATIVES INTERNATIONAL**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: June , 2011

Issued by

Registrar

Address of
court office

Osgoode Hall
130 Queen Street West
Toronto, ON
M5H 2N5

TO: TURTLE ISLAND HUMANITARIAN AID
c.o.b. CANADIAN BOAT TO GAZA
3620-B RUE AYLMER
MONTREAL QC
H2X2C2

AND TO: ALTERNATIVES INTERNATIONAL
3720 AVENUE DU PARC, BUREAU 300
MONTREAL QC
H2X 2J1

CLAIM

1. The Plaintiff claims:
 - a. damages in the amount of \$1,000,000.00 for trauma and injuries suffered as a consequence of the Defendants' conspiracy and trespass to the person;
 - b. damages for lost rent, the cost of renovations and relocation expenses in the amount of \$20,000;
 - c. an interim, interlocutory and permanent injunction prohibiting the Defendants from continuing to raise funds, purchasing equipment or supplies, and purchasing or renting a vessel for the purpose of delivering goods or funds to the Gaza Strip;
 - d. an interim, interlocutory and permanent injunction prohibiting the Defendants from sending goods, funds or any other material support, directly or indirectly, to Hamas or any of its representatives, and/or from aiding and abetting Hamas by assisting in bringing imports and exports to and from the Gaza Strip;
 - e. a Declaration that the actions of the Defendants in attempting to provide supplies and to otherwise directly or indirectly aid Hamas or any other recognized terrorist group constitutes material support of terrorism;
 - f. pre and post judgment interest on all amounts awarded as set out under the Courts of Justice Act; and
 - g. costs of this action on a substantial indemnity basis.

The Parties

2. The Plaintiff, Cherna Rosenberg, is a Canadian citizen and divides her time between residences in Israel and Ontario.

3. The Defendant, Turtle Island Humanitarian Aid (“Canadian Boat”), is a Quebec corporation which carries on business as Canadian Boat to Gaza, as well as other similar nominal derivatives, that fundraises, organizes and manages an attempt to breach the Israeli naval blockade surrounding the Hamas-ruled Gaza Strip in order to bring supplies to and transport exports away from the region on behalf and in aid of Hamas. This fundraising and organizational activity occurs across Canada via the internet and by other means, including in Ontario.

4. The Defendant, Alternatives International, is a Montreal-based not-for-profit, non-governmental organization which operates as the financial sponsor and trustee for the Canadian Boat.

The Plaintiff’s exposure to Hamas terrorism

5. The Plaintiff was born in Montreal, Quebec in 1943. In 1964 she travelled to Israel to live on a kibbutz where she eventually married. She has two children, both born in Israel, who are Canadian citizens. The Plaintiff remained in Israel until her divorce and returned to Canada in 1984 where she established residence in Toronto. Her current Canadian residence is in Burlington, Ontario.

6. In 2007, the Plaintiff went to live with her daughter and grandchildren in Sderot, a village of approximately 35,000 people in south-western Israel which is situated within one mile of the Gaza Strip. The Plaintiff rented a house next door to her daughter.

7. The village of Sderot has been the target of Qassam rocket attacks from Hamas terrorists on the Gaza side of the border since 2001. The height of these attacks was between 2007-2008 when rockets and mortars fell on Sderot on a daily basis. Attacks are typically accompanied by red alert sirens provided by Israeli civil defenses, which give residents a signal to stop what they are doing immediately and seek cover. These attacks have resulted in the deaths of numerous Israeli civilians and have caused enormous trauma and property damage in Sderot and surrounding region.

8. During her time in Sderot, when attacks were alerted, the Plaintiff would huddle with her grandchildren below the first floor staircase of her daughter's house until the danger was gone. Though no rockets ever hit the Plaintiff or her family, many fell within 100 yards of their houses, and had a traumatizing effect on her.

9. As a direct result of the constant fear and anxiety which permeated living in such an environment, the Plaintiff left Sderot in March of 2008, and relocated to Haifa. In doing so, the Plaintiff lost approximately \$20,000 which she had just invested in renovations to her house, together with lost rent and the costs of moving.

10. Though the Plaintiff's Israeli residence is now in Haifa, she frequently returns to Sderot to visit her daughter and grandchildren. During those visits it has been common occurrence for the red alert to sound and rockets to fall. The Plaintiff observed that her grandchildren were scared and on edge as a result of the constant state of fear. The most recent attack she experienced in the Sderot area was in April of 2010. Her trauma is relived and increased with each of these ongoing terrorist attacks by the Hamas rulers of Gaza and their surrogates. She experiences the psychological effects of these traumatic episodes on an ongoing basis.

11. The Plaintiff now resides both in Haifa, Israel and in Burlington, Ontario, dividing her time between the two residences.

Hamas as a terror organization

12. The Gaza Strip region has long been the source of attacks against civilians within Israel and against Israelis and Jews worldwide. The most recent spate of violence stems from the Second *intifadah*, a period of renewed attacks against Israeli civilians which began in 2000 and continues to the present date. Hamas also plans to target civilians in Canada have also been uncovered by the Israeli police, who have coordinated their efforts with Canadian governmental authorities.

13. In 2006, the Hamas movement won the Palestinian legislative election and seized control of the cabinet. Due to tensions and infighting between Hamas and the previous Palestinian ruling party, Fatah, the two factions soon after became engaged in a violent conflict. In 2007, Hamas gained control and governance of the Gaza Strip while Fatah maintained control of the West Bank. Hamas has since claimed responsibility for numerous terrorist attacks against Israel, including many of the Qassam rocket attacks against Sderot. Hamas' stated goal is the elimination of Israel as a country and the expulsion of all Jewish citizens from the region.

14. Though Israel has entered negotiations with the Fatah-ruled West Bank in attempts to curb the violence, Hamas has refused to cease its attacks against Israel-based civilian targets. Because of the continuing threat and state of war presented by Hamas and its supporters in the Gaza Strip, Israel has instituted a naval blockade of the region to prevent armaments or funds from reaching Hamas by way of international sympathizers and supporters.

15. Hamas was listed in 2002 as a terrorist group by the government of Canada under the Regulations Establishing a List of Entities, as amended, S.O.R./2002-434, s . 1, November 27, 2002, as published in the 136 (II) Canada Gazette 116 (Nov. 28, 2002). This list is published pursuant to section 83.05 of the Criminal Code, R.S., 1985, c. C-46, as amended by the Anti-Terrorism Act, S.C. 2001, c.41, and is part of the package of federal regulations implementing the International Convention on the Suppression of the

Financing of Terrorism, adopted by General Assembly Res. 54/109, December 9, 1999, 2178 U.N.T.S. 197 (2000).

The Defendants' Flotilla project

16. The Canadian Boat is a member of the "Freedom Flotilla II" group, a loosely connected assortment of coalitions from various countries who are attempting to organize, fund, and supply ships to breach the naval blockade of the Gaza Strip and directly provide material goods to the region. It is committed to breaking the Israeli naval blockade and supporting the Hamas rulers of Gaza by importing and exporting goods from the terrorist-ruled territory. The Canadian Boat's *raison d'être* is to aid and abet the terrorist organization that rules Gaza.

17. Alternatives International is the self-professed fundraiser and trustee for the Canadian Boat. It provides financial management for the enterprise and assists in the financing of the terrorist-supporting Canadian Boat project.

Conspiracy

18. Any and all supplies delivered to the Gaza Strip which do not first pass through an inspection by Israeli authorities run the very real risk of being seized by the Hamas government to supply and support their own military wing.

19. Moreover, the act of directly supplying the Hamas authorities in Gaza with supplies, regardless of the nature of those supplies, is in contravention of section 83.03 of the Criminal Code. Section 83.03 provides that it is illegal for anyone to:

Directly or indirectly, collect property, provide or invite a person to provide, or make available property or financial or other related services

(a) intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity, or

(b) knowing that, in whole or part, they will be used by or will benefit a terrorist group.

20. It is also an offence under section 83.08(1) of the Criminal Code for anyone in Canada to:

(a) deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;

(b) enter into or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or

(c) provide any financial or other related services in respect of property referred to in paragraph (a) to, for the benefit of or at the direction of a terrorist group.

21. The Defendants have conspired with one another to supply and fund a terrorist group in contravention of the Criminal Code. The Defendant Canadian Boat has been responsible for organizing and administering the efforts while the Defendant Alternatives International has been responsible for raising, administering, and providing trustee services for the funds for the project.

22. The acts of the Defendants described herein amount to both a conspiracy to injure and a conspiracy to use unlawful means.

Trespass to the Person

23. The Defendants are further liable as joint tortfeasors for trespass to the person, specifically assault and battery. The actions of the Defendants are a step in the chain of conduct that ultimately leads to the rocket attacks that have traumatized the Plaintiff and caused her much suffering and loss. The Defendants are acting in concert with Hamas to achieve harm to upon the Plaintiff.

Damages

24. As indicated in paragraph 9 above, the Plaintiff has suffered a loss of \$20,000 in respect of relocation costs and lost investment in her Sderot house.
25. The Plaintiff has also suffered emotional and psychological harm as a result of the traumas inflicted by the Hamas bombing campaign, to which the Defendants' conduct contributes. The trauma of living under Hamas rockets, whose existence is supported and facilitated by the acts of the Defendants, has made the Plaintiff's life in Israel and in Ontario a continuous trauma from which she suffers substantial personal loss.
26. These traumas and harms are suffered by the Plaintiff on an ongoing basis, including while at her home in Burlington, Ontario.

27. Full particulars of all losses will be provided prior to trial of this action.

Jurisdiction

28. The Plaintiff serves the Defendants outside of Ontario pursuant to Rule 17.02(h) of the Rules of Civil Procedure, having sustained damage in Ontario from the Defendants' tortuous conduct.

29. In addition, the Defendants have done fundraising, organizational initiatives for their project, and other tortuous conduct across Canada, including in Ontario. Their acts are therefore also torts committed in Ontario, pursuant to Rule 17.02(g).

30. The Plaintiff submits that the trial of this matter take place in Toronto, Ontario.

Dated: June 2, 2011

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Solicitor for the Plaintiff