

S-083195

No.  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SARAH WILLIAMS AND JENNIFER WILLIAMS  
by their litigation guardian, MICHAEL WILLIAMS

PLAINTIFFS

AND:

THE B.C. CONFERENCE OF THE MENNONITE  
BRETHREN CHURCHES and UNITE PRODUCTIONS INC.

DEFENDANTS

**WRIT OF SUMMONS**

Brought under the Class Proceedings Act, R.S.B.C. 1996, c. 50

Name and address  
of each Plaintiff:

Sarah Williams and Jennifer Williams, by their  
litigation guardian, Michael Williams  
c/o #550 – 5900 No. 3 Road  
Richmond, B.C.

Jennifer Williams, by her litigation guardian,  
Michael Williams  
c/o #550 – 5900 No. 3 Road  
Richmond, B.C.

Name and address  
Of each Defendant:

The B.C. Conference of the Mennonite Brethren  
Churches  
101 – 32310 South Fraser Way  
Abbotsford, B.C. V2T 1X1

Unite Productions Inc.  
11 Francis Creek Blvd.  
St. Catharines, Ontario L2W 1B1

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her  
other Realms, and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

*To the defendants:* The B.C. Conference of the Mennonite Brethren Churches, and Unite  
Productions Inc.

TAKE NOTICE that this action has been commenced against you by the Plaintiff for the claims set out in this Writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim which you wish to have taken into account at the trial, YOU MUST

- (a) GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above Registry of this Court, at the address shown below, within the Time for Appearance provided for below and YOU MUST ALSO DELIVER a copy of the "Appearance" to the Plaintiff\* address for delivery, which is set out in this Writ, and
- (b) if a statement of claim is provided with this Writ of Summons or is later served on or delivered to you, FILE a Statement of Defence in the above registry of this Court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the Plaintiff's address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the Registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- (a) YOU FAIL to file the "Appearance" within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

#### TIME FOR APPEARANCE

If this Writ is served on a person in British Columbia, the Time for Appearance by that person is seven (7) days from the service, (not including the day of service).

If this Writ is served on a person outside British Columbia, the Time for Appearance by that person, after service is twenty-one (21) days in the case of person residing anywhere within Canada, twenty-eight (28) days in the case of a person residing in the United States of America, and forty-two (42) days in the case of a person residing elsewhere.

[or, if the Time for Appearance has been set by Order of the Court, within that time.]

#### TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the Plaintiff within 14 days after the later of:

- (a) the time that the Statement of Claim is served on you (whether with this Writ of Summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time for Appearance provided for above.

[or, if the time for defence has been set by order of the court, within that time.]

(1) The address of the Registry is:	800 Smithe Street Vancouver, B.C. V6Z 2E1
(2) The address for delivery is:  Fax number for delivery is:	Suite 550 – 5900 No. 3 Road Richmond, B.C. V6X 3P7 604-713-8038
(3) The name and office address of the Plaintiff's solicitor is:	<b>R. Brian Webster, Q.C.</b> Webster and Associates Barristers and Solicitors Suite 550 – 5900 No. 3 Road Richmond, B.C. V6X 3P7

**The Plaintiffs' claim is:** See attached Statement of Claim.

Dated this 5<sup>th</sup> day of May, 2008.



\_\_\_\_\_  
Solicitor for the Plaintiff

**FORM 6**  
(Rule 13(2))

**Endorsement On Originating Process  
for Service Outside British Columbia**

The plaintiff claims the right to serve this Writ on the defendant Unite Productions Inc. outside British Columbia on the ground that the matter concerns a tort committed in British Columbia.

This **WRIT OF SUMMONS** and **STATEMENT OF CLAIM** is made and filed by R. Brian Webster, Q.C., barrister and solicitor, whose place of business and address for delivery is Suite 550 – 5900 No. 3 Road, Richmond, B.C. V6X 3P7; Tel: 604-713-8030, Fax: 604-713-8038.

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BETWEEN:

SARAH WILLIAMS and JENNIFER WILLIAMS  
by their litigation guardian, MICHAEL WILLIAMS

PLAINTIFFS

AND:

THE B.C. CONFERENCE OF THE MENNONITE  
BRETHREN CHURCHES and UNITE PRODUCTIONS INC.

DEFENDANTS

**STATEMENT OF CLAIM**

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**The Plaintiffs**

1. The infant plaintiff, Sarah Williams born March 21, 1991, a resident of Abbotsford B.C. brings this action by her litigation guardian, Michael Williams, and has an address for delivery care of Suite 550 – 5900 No. 3 Road, Richmond, British Columbia, V6X 3P7.
2. The infant plaintiff, Jennifer Williams born July 26, 1989, a resident of Abbotsford, B.C. brings this action by her litigation guardian, Michael Williams, and has an address for delivery care of Suite 550 – 5900 No. 3 Road, Richmond, British Columbia, V6X 3P7.
3. The plaintiffs, Sarah Williams and Jennifer Williams, by their litigation guardian, Michael Williams, are hereinafter jointly referred to as the “infant plaintiffs”.

**The Defendants**

4. The Defendant, The B.C. Conference of the Mennonite Brethren Churches, (hereinafter referred to as the “Defendant Church”), is a society under the

Society Act, RSBC 1996 c433 which has its registered office at 101 – 32310 South Fraser Way, Abbotsford and owns and operates the Central Heights Mennonite Brethren Church (the “Church”) at 1661 McCallum Road, Abbotsford, British Columbia.

5. The Defendant, Unite Productions Inc. is a company incorporated under the laws of the province of Ontario with registered office at 11 Francis Creek Boulevard, St. Catherines, Ontario (hereinafter referred to as the “Unite”).

### **The Facts**

6. On or about April 25, 2008, while the Church was occupied by a large group of invitees, guests, volunteers, and church members for the purposes of a musical concert, the floor of the Church suddenly and without warning collapsed causing occupants of the Church to be thrown to or fall into the basement of the Church.
7. As a result of the collapse of the Church floor, the infant plaintiffs and other invitees, guests, volunteers, and church members, suffered personal injuries and property damage.
8. The infant plaintiffs, through their litigation guardian, represent a prospective class defined as all of those persons who suffered personal injuries or property damage as a result of the collapse of the Church floor on April 25, 2008.
9. The infant plaintiffs, through their litigation guardian, will fairly and adequately represent the interests of all members of the class and have no interests that are in conflict with any interest of other members of the class.

### **Occupiers Liability Act and Negligence**

10. At all material times the infant plaintiffs, and other invitees, guests, volunteers, and church members were persons to whom the Defendants owed a common law duty of care and a statutory duty of care pursuant to the *Occupiers' Liability Act*. R.S.B.C. 1979, c. 303 and amendments thereto;

11. The injuries, loss and damage were occasioned to the infant plaintiffs, and other invitees, guests, volunteers, and church members by reason of a breach of *Occupiers Liability Act*, supra, by the Defendant Church, and/or the negligence of the Defendant Church its employees, servants or agents, the particulars of which include the following:
  - a) Failing to take reasonable care to insure that persons, including the infant plaintiffs, invitees, guests, volunteers, and church members, would be reasonably safe in using the Church premises;
  - b) Exposing the infant plaintiffs, invitees, guests, volunteers, and church members to unreasonable dangers, risk of damage and injury while on the Church premises;
  - c) Failing to take any or any adequate measures, whether by way of maintenance, repair or otherwise, to ensure that the Church premises were in a reasonably safe condition for a musical concert after having actual knowledge of its state of repair;
  - d) Failing to give the infant plaintiffs invitees, guests, volunteers, and church members adequate warning of hazards and dangers on the Church premises;
  - e) Creating a hazardous condition, allowing the hazardous condition to remain or failing to repair the floor of the Church;
  - f) Failing to ensure that the Church premises were designed and constructed in a manner that was safe for the intended purpose;
  - g) Failing to provide adequate or any maintenance of the Church floor;
  - h) Failing to warn the infant plaintiffs, invitees, guests, volunteers, and church members of a hidden danger to which the Defendant knew or ought to have known existed;
  - i) Failing to take reasonable steps in the circumstances to ensure that the Church premises would be reasonably safe for the purpose of a musical concert;

- j) Failing to take any or any reasonable care to prevent injury or damage to the infant plaintiffs, invitees, guests, volunteers, and church members;
  - k) Failing to take any or any adequate measures to ensure that the Church was not operated in a dangerous manner;
  - l) Failing to adopt or adhere to a reasonable system of inspection and maintenance for the Church to detect and prevent or repair dangerous conditions thereon;
  - m) Failing to take any or any adequate measures whether by way of periodic or other examination or inspection to ensure that the Church would be reasonably safe for users;
  - n) Failing to exercise due care in the supervision of persons, including the infant plaintiffs, invitees, guests and volunteers in the Church, including monitoring the occupant load in the Church;
  - o) Failing to act on warning signs that the Church floor was in a dangerous or defective condition;
  - p) Using or allowing the Church premises to be used for the purposes of a musical concert, knowing that it was not designed for such purposes;
  - q) Such further and other particulars of negligence and breach of the *Occupiers Liability Act*, supra as shall be determined upon discovery.
12. At all material times the infant plaintiffs, invitees, guests, volunteers, and church members, were persons to whom the Defendant Unite owed a common law duty of care and a statutory duty of care pursuant to the *Occupiers' Liability Act*, supra and amendments thereto.
- a) The injuries, loss and damage were occasioned to the infant plaintiffs by reason of a breach of *Occupiers Liability Act*, supra by the Defendant Unite, and/or the negligence of the Defendant Unite, its employees, servants or agents, the particulars of which are as follows:  
Inviting the infant plaintiffs, and other invitees, guests, volunteers, and

church members all to the Church for the purposes of a musical concert when it was not reasonably safe to do so;

- b) Failing to take reasonable care to insure that persons, including the infant plaintiffs, invitees, guests, volunteers, and church members would be reasonably safe in attending the Church premises for purposes of a musical concert;
- c) Failing to take any or any adequate measures whether by way of examination or inspection to ensure that the Church would be reasonably safe for the purpose of a musical concert;
- d) Failing to exercise due care in the supervision of persons, including the infant plaintiffs, invitees, guests, volunteers, and church members in the Church, including monitoring the occupant load in the Church
- e) Failing to act on warning signs that the Church floor was in a dangerous or defective condition;
- f) Leasing and/or using the Church premises for the purposes of a musical concert, knowing that it was not designed for such purposes;
- g) Such further and other particulars of negligence and breach of the Occupiers Liability Act as shall be determined upon discovery.

### **Injuries and Damages**

- 13. As a result of the negligence and breach of *Occupiers Liability Act*, supra the infant plaintiffs and other invitees, guests, volunteers, and church members, suffered personal injuries and property damage.
- 14. As a result of the negligence and breach of statutory duty of the Defendants, the infant plaintiffs have suffered property damage and personal injuries which cause or continue to cause them pain and suffering, disability, loss of enjoyment of life and loss of the amenities of life.
- 15. In particular, the infant plaintiff Sarah Williams has suffered:
  - a) traumatic brain injury,

- b) concussion
- c) headaches
- d) fatigue
- e) Injuries to her back, wrist and hip
- f) bruises, abrasions
- g) nervous shock and other sequelae
- h) such other particulars of injury as shall become known to the infant plaintiff.

16. In particular, the infant plaintiff Jennifer Williams has suffered injuries including;

- a) injuries to her left arm
- b) bruises, abrasions
- c) nervous shock and other sequelae
- d) such other particulars of her injuries as shall become known to the infant plaintiff.

17. As a result of the injuries the infant plaintiffs have undergone medical care and treatment, and have suffered and continue to suffer pain and emotional upset.


WHEREFORE the infant Plaintiffs Sarah Williams and Jennifer Williams, by their Litigation Guardian, claims on their own behalf and on behalf of the class of persons injured, against the Defendants for:

- a) an Order certifying this action as a **class action** and appointing this plaintiff as a class representative, and other appropriate orders under the provisions of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 as amended;
- b) general damages;
- c) special damages;
- d) "in trust" damages;

- e) the damages to be an aggregate award on behalf of all members of the class under Part 4, Division 2 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50;
- f) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79, as amended; and
- g) costs;
- h) such further and other relief as this Honourable Court may deem just.

Place of Trial: Vancouver, B.C.

Dated: this 5<sup>th</sup> day of May, 2008.



Solicitor for the Plaintiffs

This **WRIT OF SUMMONS and STATEMENT OF CLAIM** is filed by R. Brian Webster, Q.C., barrister and solicitor, whose place of business and address for delivery is Suite 550 – 5900 No. 3 Road, Richmond, B.C. V6X 3P7; Tel: (604) 713-8030, Fax: (604) 713-8038. (Reference 1316j)



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BETWEEN:

Sarah Williams and Jennifer Williams  
By their Litigation Guardian, Michael Williams

PLAINTIFFS

AND:

The B.C. Conference of the Mennonite Brethren Churches and  
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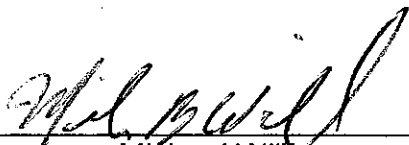
DEFENDANTS

**CONSENT TO ACT AS LITIGATION GUARDIAN**

I, Michael Williams, of 35470 Edson Place, Abbotsford, British Columbia, hereby undertake to act as Litigation Guardian for Sarah Williams, and to be responsible for the costs of the within proceeding.

I further state that I have no interests in this proceeding adverse to that of Sarah Williams.

Dated at Richmond, British Columbia, this 5 day of May, 2008.

  
\_\_\_\_\_  
Michael Williams

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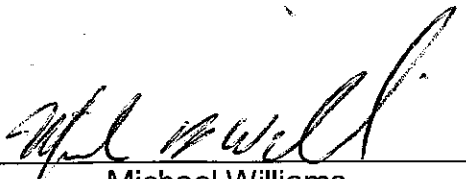
DEFENDANTS

**CONSENT TO ACT AS LITIGATION GUARDIAN**

I, Michael Williams, of 35470 Edson Place, Abbotsford, British Columbia, hereby undertake to act as Litigation Guardian for Jennifer Williams, and to be responsible for the costs of the within proceeding.

I further state that I have no interests in this proceeding adverse to that of Jennifer Williams.

Dated at Richmond, British Columbia, this 5 day of May, 2008.

  
\_\_\_\_\_  
Michael Williams



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PLAINTIFFS

AND:

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Unite Productions Inc.

DEFENDANTS

**CERTIFICATE OF FITNESS**

I, R. Brian Webster, of Suite 550 – 5900 No. 3 Road, Richmond, British Columbia V6X 3P7, believe/know that:

1. The said Sarah Williams is an infant whose date of birth is March 21, 1991;
2. Sarah Williams, her parent and the proposed litigation guardian for Sarah Williams, has no interest in this proceeding adverse to that of Sarah Williams; and
3. A committee has not been appointed for Sarah Williams.

Dated at Richmond, British Columbia, this 5<sup>th</sup> day of May, 2008.

  
\_\_\_\_\_  
Solicitor for the Plaintiff

This **CERTIFICATE OF FITNESS** is prepared and filed by R. Brian Webster, Solicitor for the Plaintiff, of the firm of Webster & Associates, Suite 404 - 5811 Cooney Road, Richmond, B.C. V6X 3M1, phone 713-8030, fax 713-8038.



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Unite Productions Inc.

DEFENDANTS

**CERTIFICATE OF FITNESS**

I, R. Brian Webster, of Suite 550 – 5900 No. 3 Road, Richmond, British Columbia V6X 3P7, believe/know that:

1. The said Jennifer Williams is an infant whose date of birth is July 26, 1989;
2. Michael Williams, her parent and the proposed litigation guardian for Jennifer Williams, has no interest in this proceeding adverse to that of Jennifer Williams; and
3. A committee has not been appointed for Jennifer Williams.

Dated at Richmond, British Columbia, this 5<sup>th</sup> day of May, 2008.

  
Solicitor for the Plaintiff

This **CERTIFICATE OF FITNESS** is prepared and filed by R. Brian Webster, Solicitor for the Plaintiff, of the firm of Webster & Associates, Suite 404 - 5811 Cooney Road, Richmond, B.C. V6X 3M1, phone 713-8030, fax 713-8038.