



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**BELL CANADA, BELL MOBILITY INC. and NORTHERN TELEPHONE, LIMITED
PARTNERSHIP by its GENERAL PARTNER, BELL CANADA**

Plaintiff

and

**SYLVAIN FLEURY, JOHN DOE 1, JOHN DOE 2, JANE DOE and any other persons
unknown who have conspired with the named defendants**

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.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of Superior Court of Justice
court office: 330 University Avenue, 7th Floor
Toronto, ON M5G 1R7

TO: SYLVAIN FLEURY

AND TO: JOHN DOE 1

AND TO: JOHN DOE 2

AND TO: JANE DOE

CLAIM

1. The Plaintiffs, Bell Canada, Bell Mobility Inc. and Northern Telephone, Limited Partnership by its General Partner, Bell Canada (collectively, “**Bell**”) claim as against all the defendants, jointly and severally:

(a) General damages in the amount of \$100,000 or such other amount as will be proven at trial for, *inter alia*:

(i) trespass, trespass to chattels, and conversion for the defendants’ unlawful taking of Bell’s copper telecommunications equipment;

(ii) lost profits and lost business opportunities suffered by the plaintiffs;
and

(iii) the defendants’ unjust enrichment.

(b) Special damages in the amount of \$100,000 or such other amount as will be proven at trial for, *inter alia*:

(i) the replacement value of Bell’s stolen copper telecommunications equipment (as described herein) at current market values;

(ii) all costs and expenses required to repair the damage caused by the defendants forcibly accessing and damaging Bell’s property and removing copper telecommunications equipment;

- (c) an order requiring the defendants Sylvain Fleury and John Doe 1, jointly and severally, for the disgorgement of profits obtained by the wrongful sale of the plaintiff's copper equipment to John Doe 2, Jane Doe and/or any other persons unknown;
- (d) an order requiring the defendant Sylvain Fleury to disclose the name and address of all of his accomplices and co-conspirators in the wrongful conduct alleged herein, including those persons identified herein as John Doe 1, John Doe 2, and Jane Doe;
- (e) as against defendants John Doe 2 and/or Jane Doe, jointly and severally:
 - (i) general damages for unlawful means conspiracy for receiving and purchasing Bell's stolen copper telecommunications equipment from the defendants Sylvain Fleury and/or John Doe 1, knowing it to be stolen; and
 - (ii) an order for the disgorgement of profits obtained from the wrongful sale of Bell's stolen copper telecommunications equipment to persons unknown;
- (f) punitive, exemplary and aggravated damages in the amount of \$100,000;
- (g) costs of this proceeding on a full indemnity basis, plus all applicable taxes;

- (h) prejudgment and post-judgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43; and
- (i) such further and other relief as this Honourable Court may deem just.

The Parties

2. The plaintiff, Bell Canada, is a corporation incorporated pursuant to the laws of Canada with its head office in Montreal, Quebec. Bell Canada provides wireline telecommunications products and services to consumer and business customers throughout Canada over its telecommunications network which consists in part of telecommunications towers, as described below.

3. The plaintiff, Bell Mobility Inc. ("**Bell Mobility**"), is a corporation incorporated pursuant to the laws of Canada with its head office in Montreal, Quebec. Bell Mobility is a wholly owned subsidiary of Bell Canada. Bell Mobility provides wireless telecommunications products and services to consumer and business customers throughout Canada over its wireless network, which consists in part of cellular telecommunications towers.

4. The plaintiff, Northern Telephone, Limited Partnership, is a Quebec limited partnership with its head office in Montreal, Quebec. Bell Canada is NorthernTel's general partner. NorthernTel's operations are centred in Northeastern Ontario where it carries on business under the name NorthernTel ("**NorthernTel**"). NorthernTel provides wireline and wireless telecommunications products and services to consumer and

business customers throughout Northeastern Ontario over its telecommunications network which consists in part of telecommunications towers.

5. In some cases, Bell Canada, Bell Mobility Inc. and NorthernTel (collectively “**Bell**”) make use of—or “collocate” telecommunications equipment on—each other’s towers to service their respective customers.

6. The defendant Sylvain Fleury is an individual residing in Ontario. On November 1, 2022, Fleury was arrested by the Ontario Provincial Police and charged in connection with certain of the events described below.

7. The defendant, John Doe 1, is an individual residing in Ontario. John Doe 1 was Fleury’s accomplice and co-conspirator who has participated in some or all of the events described below.

8. The defendants, John Doe 2 and Jane Doe, are individuals whose residence is unknown at this time. John Doe 2 and Jane Doe were the co-conspirators of Fleury and John Doe 1 who received and purchased Bell’s stolen copper telecommunications equipment with actual knowledge that it was unlawfully acquired by Fleury and/or John Doe 1.

The Use of Copper Telecommunications Equipment in Bell’s Network

9. All three of the plaintiffs make use of wireless telecommunications towers in their networks. Bell Canada and NorthernTel rely largely on their physical networks to

transmit signals for their customers' wireline services. However, in order to service customers in more remote locations where it is impractical to build out a physical network, they may use microwave signals transmitted over the air from towers to their physical networks. Bell Mobility and NorthernTel rely on cellular telecommunications towers to transmit their customers' wireless signals to their core network for further routing.

10. Freestanding cell and/or microwave towers in Bell's network are located at secure tower sites which typically consist of a telecommunications tower, a building containing electronics and other equipment necessary for the tower to operate, generators and other related facilities. Tower sites are enclosed within a chain link fence intended to exclude unauthorized persons. Bell's tower sites are located on land pursuant to real property leases with private landowners.

11. Significant portions of Bell's network consist of copper telecommunications equipment including, among other things, waveguides, wire and cable which enable the efficient transmission of electromagnetic signals in Bell's network, thereby enabling to the provision of high quality telecommunications service for Bell's customers. Unauthorized removal or damage to copper telecommunications equipment may cause widespread network outages, and impair Bell's customers' access to voice communication services, 911 emergency services, email, and the Internet.

12. A typical tower site may contain copper telecommunications equipment that is both active in the network and available as spare parts for use by Bell technicians for

the purposes of repair and maintenance. At the date of the defendants' actions as described herein, the price of copper per pound paid by, among others, scrap metal dealers was attractive to sellers.

Fleury and John Doe 1 Unlawfully Take Bell's Copper Telecommunications Equipment

13. Between around June 2022 and March 2023, Fleury and John Doe 1 forcibly broke into certain Bell tower sites and unlawfully removed copper telecommunications equipment belonging to the plaintiffs. In particular, Fleury and John Doe 1 damaged Bell's property by cutting through fences, forcing open locked gates and prising open locked gates and doors, and stealing copper telecommunications equipment from the following tower sites:

- (a) Tower number Z1501, owned by Northern Tel, and located at 1239 Bell Telephone Road, Nellie Lake, Ontario (the "**Nellie Lake Site**");
- (b) Tower number Z1374, owned by Bell Canada, and located at 1000 Primary, Smooth Rock Falls, Ontario (the "**Smooth Rock Site**");
- (c) Tower number Z1287, owned by Bell Canada, and located at 6 Tower Road, Moonbeam, Ontario (the "**Moonbeam Site**");
- (d) Tower number T0940, owned by Bell Mobility, and located at 1180 North Butler Lake Road, Ramore, Ontario (the "**Mount Kempis Site**");

- (e) Towers number Z1484 and Z1055, owned by Bell Canada, collocated on by NorthernTel, located at Fraser River, Ontario (the “**Fraser River Site**”);
- (f) Tower number Z1308/T0003, owned by Bell Canada, collocated on by Bell Mobility, and located at 294 Highway 11, Lowther, Ontario; (the “**Lowther/Reesor Site**”) and
- (g) Tower number Z1482/T0939, owned by Bell Mobility, collocated on by NorthernTel, and located at 27 Concession 1, Forde Lake, Ontario (the “**Calstock/Forde Lake Site**”).

(Collectively, the “**Tower Sites**”)

14. At all of the Tower Sites, Fleury and John Doe 1 caused damage to the fence, doors, locks and/or buildings at the site and unlawfully trespassed on Bell’s property

15. In addition, at the Lowther/Reesor Site, the Fraser River Site, the Smooth Rock Site, and the Mount Kempis Site, Fleury and John Doe 1 unlawfully took copper telecommunications equipment belonging to Bell by cutting it or otherwise forcibly removing it from the surrounding network equipment. Fleury and John Doe 1’s purpose in carrying out these unlawful acts was to benefit from Bell’s copper telecommunications equipment including by selling it to for profit to John Doe 2, Jane Does and/or other persons unknown in the business or purchasing copper.

The Defendants' Wrongful Acts

Trespass

16. By entering on Bell's property without lawful justification Fleury and John Doe 1 engaged in wrongfully trespassing at all of the tower sites. They did so for the sole purpose of determining if the tower sites contained copper telecommunications equipment that they could steal and sell for profit to third parties.

Trespass to Chattels

17. Fleury and John Doe 1 engaged in trespass to chattels by:

- (a) breaking or otherwise damaging fences, doors, and locks at the Tower Sites in order to gain entry to Bell's property; and
- (b) damaging copper telecommunications equipment by forcibly removing it from Bell's network;

Conversion

18. Fleury and John Doe 1 have engaged in conversion by interfering with Bell's copper telecommunications equipment in a manner inconsistent with Bell's use and possession of it. They did so knowingly and in order to convert Bell's copper telecommunications equipment to their own use and benefit, including by selling it to John Doe 2, Jane Doe and/or other persons unknown.

Conspiracy

19. John Doe 2 and Jane Doe engaged in unlawful means conspiracy by purchasing Bell's copper telecommunications equipment from Fleury and John Doe 1 for value, knowing that it was stolen, for the purpose of reselling it on for profit to other persons unknown.

Unjust Enrichment

20. All of the defendants have been unjustly enriched by Fleury and John Doe 1's theft and unlawful sale of Bell's copper telecommunications equipment. In particular, all the plaintiffs were enriched by their respective sales of copper equipment, and Bell was correspondingly deprived without juridical reason.

Bell's Damages

21. Fleury and John Doe 1 are liable to Bell for any and all damages resulting from their unlawful conduct including, without limitation:

- (a) General damages in the amount of \$100,000 or such other amount as will be proven at trial for, *inter alia*:
 - (i) trespass, trespass to chattels, and conversion for the defendants' unlawful taking of Bell's copper telecommunications equipment;
 - (ii) lost profits and lost business opportunities suffered by the plaintiffs;
- and

- (iii) the defendants' unjust enrichment.
- (b) Special damages in the amount of \$100,000 or such other amount as will be proven at trial for, *inter alia*:
- (i) the replacement value of Bell's stolen copper telecommunications equipment (as described herein) at current market values;
 - (ii) all costs and expenses required to repair the damage caused by the defendants forcibly accessing and damaging Bell's property and removing copper telecommunications equipment;
22. John Doe 2 and Jane Doe are liable to Bell for conspiracy and unjust enrichment
23. Punitive damages are appropriate in an amount sufficient to reflect this Court's condemnation of the illegal conduct of the defendants. In addition to profiting from their unlawful acts, the defendants' wrongful conduct causes local and widespread network outages, and has the potential to disrupt vital telecommunications services on which large sections of the Canadian population rely. This deliberate disregard for others is deserving of increased sanction.

24. Bell proposes that this action be tried in Toronto.

April 5, 2023

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BELL CANADA et al.

Plaintiffs

-and- **SYLVAIN FLEURY et al.**

Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

STATEMENT OF CLAIM

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