

This Writ of Summons, originally filed on June 22, 2010, was amended by an Order of March 28, 2011 to name Frank Liang as the Plaintiff's litigation guardian and to add the City of Burnaby and Gunn Fire Prevention and Electric Ltd. as Defendants.

**SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY**

NO. S104460  
VANCOUVER REGISTRY

APR 07 2011  
IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN



JOSHUA PENG, an Infant by His Litigation Guardian, ZHEN PENG KAILE FRANK LIANG, also known as, MURRAY PENG FRANK LIANG

PLAINTIFF

AND:

FU DE REN and FENG YAN, CITY OF BURNABY and GUNN FIRE PREVENTION AND ELECTRIC LTD.

DEFENDANTS

AND:

MURRAY PENG, IRENE PENG, CITY OF BURNABY and GUNN FIRE PREVENTION AND ELECTRIC LTD.

THIRD PARTIES

AMENDED WRIT OF SUMMONS

[Name and address of each plaintiff]

Joshua Peng, an Infant by His Litigation Guardian, Zhen Peng Kaile Frank Liang, also known as, Murray Peng Frank Liang  
c/o David H. Doig & Associates  
1450 - 1188 West Georgia Street  
Vancouver, BC V6E 4A2

#22  
CE

[Name and address of each defendant]

Fu De Ren  
1431 West 52<sup>nd</sup> Avenue  
Vancouver, BC V6P 1H9

Feng Yan  
1431 West 52<sup>nd</sup> Avenue  
Vancouver, BC V6P 1H9

City of Burnaby  
4949 Canada Way  
Burnaby, BC V5G 1M2

Gunn Fire Prevention and Electric Ltd.  
6549 Napier Street  
Burnaby, BC V5B 2C2

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: Fu De Ren and Feng Yan  
City of Burnaby  
Gunn Fire Prevention and Electric Ltd.

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 that 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's 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 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 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 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

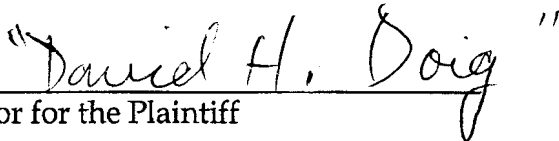
- (a) the time that the Statement of Claim is served on you (whether with this Writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time of Appearance provided for above.

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

(1)	The address of the registry is: Law Courts 800 Smithe Street Vancouver, BC V6Z 2E1
(2)	The Plaintiff's address for delivery is: 1450 - 1188 West Georgia Street Vancouver, BC V6E 4A2 Fax number for delivery: 604-687-8134
(3)	The name and office address of the Plaintiff's solicitor is: David H. Doig David H. Doig & Associates Barristers and Solicitors 1450 - 1188 West Georgia Street Vancouver, BC V6E 4A2

See attached Statement of Claim.

Dated: June 22, 2010

  
Solicitor for the Plaintiff

This **Writ of Summons** is prepared and filed by **David H. Doig** of the law firm of David H. Doig & Associates, Barristers and Solicitors, solicitors for the Plaintiff, whose place of business and address for delivery is Suite 1450, 1188 West Georgia Street, Vancouver, British Columbia, V6E 4A2, Telephone 604-687-8874

This Statement of Claim, originally filed on June 22, 2010, was amended by an Order of March 28, 2011 to name Frank Liang as the Plaintiff's litigation guardian and to add the City of Burnaby and Gunn Fire Prevention and Electric Ltd. as Defendants.



NO. S104460  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JOSHUA PENG, an Infant by His Litigation Guardian, ZHEN PENG KAILE FRANK LIANG, also known as, MURRAY PENG FRANK LIANG

PLAINTIFF

AND:

FU DE REN and FENG YAN, CITY OF BURNABY and GUNN FIRE PREVENTION AND ELECTRIC LTD.

DEFENDANTS

AND:

MURRAY PENG, IRENE PENG, CITY OF BURNABY and GUNN FIRE PREVENTION AND ELECTRIC LTD.

THIRD PARTIES

AMENDED STATEMENT OF CLAIM

1. The Plaintiff, Joshua Peng, is an infant in this action by his Litigation Guardian ~~and father, Zhen Peng Kaile Frank Liang~~, also known as, Murray Peng Frank Liang, ~~who he and~~ resides with at Room 14 - 9800 Odlin Road, in the City of Richmond, in the Province of British Columbia.
2. The Defendant, Fu De Ren, is a businessman and resides at 1431 West 52<sup>nd</sup> Avenue, in the City of Vancouver, in the Province of British Columbia.

3. The Defendant, Feng Yan, is married to the Defendant, Fu De Ren, and resides at 1431 West 52<sup>nd</sup> Avenue, in the City of Vancouver, in the Province of British Columbia.
- 3A. The Defendant, City of Burnaby is a municipality pursuant to the provisions of the *Local Government Act*, R.S.B.C. 1996, c. 323 and has an address for service at 4949 Canada Way, in the City of Burnaby, in the Province of British Columbia.
- 3B. The Defendant, Gunn Fire Prevention and Electric Ltd., is a company duly incorporated pursuant to the laws of British Columbia with its registered and records office located at 6549 Napier Street, in the City of Burnaby, in the Province of British Columbia.
4. The Defendants Ren and Yan are occupiers of the premises situated at 3526 Smith Avenue, Burnaby, British Columbia (the "Premises"). The Premises are "premises" within the meaning of the *Occupiers Liability Act*, RSBC 1996, Chapter 337 by virtue of the Defendants Ren and Yan's physical possession and ownership of the premises, of which the Defendants Ren and Yan are registered owners, and for which the Defendants Ren and Yan act as landlords.
5. On or about March 2, 2009 the Plaintiff was residing in Suite 209 on the Premises with his parents, which at that time was his family's place of residence.
6. On the evening of March 2, 2009 a fire broke out on the Premises (the "Fire"). In the course of evacuating the Premises the Plaintiff suffered severe burns and other injuries that were caused by the Fire.
- 6A. The Defendant Gunn Fire Prevention and Electric Ltd. was the company responsible for inspecting, testing and maintaining the fire suppression and fire detection equipment on the Premises at the time of the Fire.

7. The Fire and resulting injuries to the Plaintiff were caused or contributed to by the negligence of the Defendants, or any of them. The Plaintiff pleads the provisions of the *Occupiers Liability Act*, RSBC 1996, Chapter 337. ~~Particulars of the Defendants' negligence or breach of statutory duty are as follows:~~

7A. Particulars of the Defendants Ren and Yan's negligence or breach of statutory duty are as follows:

- a. Failing to take any care, or in the alternative, any reasonable care to ensure that the Plaintiff would be reasonably safe while using the Premises;
- b. Causing or permitting the Premises to become or to remain hazardous and in a dangerous condition and a danger and trap to persons lawfully using and residing in the Premises;
- c. Failing to take any measures to eliminate the hazardous nature of the Premises and to provide adequate or any reasonable measures to render the Premises safe to use when they Defendants knew or ought to have known the Premises were in a hazardous and dangerous condition;
- d. Failing to take any measures, or in the alternative any adequate measures whether by way of examination, inspection, or test or otherwise, to ensure the Premises were in a reasonably safe condition or to ensure that the Premises were not dangerous to use;
- e. Failing to give the Plaintiff or his parents any warning, or in the alternative any adequate warning of the dangerous condition of the Premises;
- f. Failing to properly maintain the Premises;

- g. Failing to comply with a fire alarm upgrade program as advised by the Burnaby Fire Department Fire Prevention Division;
- h. Failure to have systems in place to meet an acceptable level of fire and life safety in the Premises;
- i. Failure to keep a proper fire inspection schedule;
- j. Failure to comply with Fire Safety Orders of the Fire Department;
- k. Failure to properly maintain the fire alarms in the Premises;
- l. Having malfunctioning fire alarms in the Premises;
- m. Having inadequate, improper, or insufficient fire alarms in the Premises;
- n. Having inadequate, improper, or insufficient smoke detectors in the Premises;
- o. Failure to ensure that smoke detectors were installed in the suites in the Premises;
- p. Failure to maintain the lighting systems in the Premises, or in the alternative, having improper or inadequate lighting systems within the Premises;
- q. Failure to maintain the emergency light system in the Premises;
- r. Failure to maintain the exit lights for the Premises;
- s. Failure to maintain seasonal decorations, or in the alternative, failure to remove and unplug seasonal decoration in a timely fashion;



- t. Having improper and/or malfunctioning security doors, and in the alternative, failing to properly maintain the security doors on the Premises;
- u. Allowing the suites in the Premises to be overcrowded.

7B. Particulars of the Defendant City of Burnaby's negligence or breach of statutory duty are as follows:

- a. Failing to inspect, either properly or at all, the Premises to ensure that it complied with all applicable building and fire codes;
- b. Failing to enforce the applicable building and fire codes that applied to the Premises;
- c. Failing to warn the Plaintiff, his parents or the Defendants Ren and Yan that the fire suppression and fire detection equipment on the Premises was not reasonable and appropriate having regard to the applicable building and fire codes and having regard to all of the circumstances;
- d. Such further particulars as may become known to the Plaintiff.

7C. Particulars of the Defendant Gunn Fire Prevention and Electric Ltd.'s negligence or breach of statutory duty are as follows:

- a. Failing to inspect, either properly or at all, the Premises to ensure that it complied with all applicable building and fire codes;
- b. Failing to maintain, either properly or at all, the fire suppression and fire detection equipment in the Premises;

- c. Failing to warn the Plaintiff, his parents or the Defendants Ren and Yan that the fire suppression and fire detection equipment in the Premises was not reasonable and appropriate having regard to the applicable building and fire codes and having regard to all of the circumstances;
  - d. Such further particulars as may become known to the Plaintiff.
8. By reason of the Defendants' negligence, or breach of statutory duty, the Plaintiff sustained injury and has suffered loss and damage. Particulars of the Plaintiff's injuries are as follows:
  - a. Thermal burns to 45% of his body with an inhalation injury;
  - b. Cardiac arrest;
  - c. Skin graft failure;
  - d. Wound infection;
  - e. Seizures;
  - f. Hypomagnesemia;
  - g. Post-traumatic stress disorder;
  - h. Eye injury;
  - i. Scarring.

9. As a result of the Fire, and the negligence and/or breach of statutory duty of the Defendants, or each any of them, the Plaintiff has suffered and continues to suffer pain, discomfort and inconvenience, permanent disability, loss of enjoyment of life, and loss of amenities.
10. As a further result of the accident and the negligence or breach of statutory duty of the Defendants, or each any of them, the Plaintiff has suffered and continues to suffer loss and expense, particulars of which will be delivered to the Defendants upon request.
11. As a direct or indirect result of the injuries suffered by the Plaintiff as a result of the Defendants negligent acts or admissions, or breach of statutory duty, the Plaintiff has required and will continue to require "health care services" as defined by Section 1 of the *Health Care Costs Recovery Act*, SBC 2008, c. 27. Pursuant to Sections 2 and 3 of the *Health Care Costs Recovery Act* the Plaintiff claims as damages both the "past cost of health care services", and the "future cost of health care services" as each of those terms is defined in Section 1 of the *Health Care Costs Recovery Act*. Particulars of the costs and nature of the health care services received will be provided when known.
12. As a further result of the Fire and the Defendants' negligence and breach of duty, the Plaintiff has and continues to receive personal care and services from family members, including his father, Murray Peng, and his mother, Hai Yan Wang, and the Plaintiff claims In Trust for the value of that care and those services.

WHEREFORE the Plaintiff claims as follows:

- a. general damages;
- b. special damages;
- c. costs;

- d. interest pursuant to the *Court Order Interest Act*, RSBC 1996, chapter 79;
- e. such further and other relief as to this Honourable Court may deem just.

Place of trial: Vancouver, British Columbia.

Dated: June 22, 2010.

*David H. Doig*

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Solicitor for the Plaintiff

This **Statement of Claim** is filed and delivered by **David H. Doig** of the law firm of David H. Doig & Associates, Barristers and Solicitors, solicitors for the Plaintiff, whose place of business and address for delivery is Suite 1450, 1188 West Georgia Street, Vancouver, BC, V6E 4A2, Telephone: 604-687-8874, Facsimile: 604-687-8134