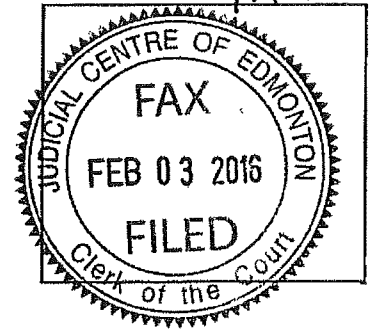


Clerk's Stamp



**FORM 10  
[RULE 3.25]**

COURT FILE NUMBER

1503-19250 /

COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE

EDMONTON

PLAINTIFF

CAROLINE BRETON on her own behalf and as the  
proposed representative plaintiff

DEFENDANTS

GEORGE ANDREW & SONS LTD. carrying on  
business as ASTORIA HOTEL, GEORGE ANDREW  
STEPHANIA ANDREW and PAM ANDREW

DOCUMENT

Brought under the *Class Proceedings Act*  
**AMENDED STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

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AMENDED THIS 3 DAY OF FEB A.D. 2016  
 PURSUANT TO RULE 362 PART 10.01(1) OF THE CLASS PROCEEDINGS ACT  
 DAY OF FEB A.D. 2016  
 CLERK OF THE COURT

**NOTICE TO DEFENDANTS**

You are being sued. You are a defendant.  
Go to the end of this document to see what you  
can do and when you must do it.

**Statement of facts relied on:**

1. The Plaintiff, Caroline Breton ("Breton"), is an individual resident in the City of Toronto, in the Province of Ontario. Breton makes this claim on her own behalf and on behalf of Class Members, pursuant to the *Class Proceedings Act*, SA 2003, c C-16.5, as amended.

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2. The Defendant, George Andrew & Sons Ltd. ("GASL"), is a corporation duly incorporated pursuant to the laws of Alberta, with head offices in Edmonton, Alberta. It carries on business in Alberta as the owner and operator of a hotel, commonly known as the Astoria Hotel, operating on lands legally described as Plan 4061EO, Block 5, Lots 12 and 13, excepting thereout all mines and minerals, and municipally described as 404 Connaught Drive, Jasper, Alberta, TOE 1EO (the "Premises").
3. At all material times, GASL was an occupier of the Premises, an innkeeper and a supplier of services to consumers.
4. The Defendant, George Andrew, is an individual resident in the Town of Jasper, in the Province of Alberta. He is the General Manager of the Premises, a Director of GASL and the sole shareholder of GASL.
5. The Defendant, Stephania Andrew, is an individual resident in the Town of Jasper, in the Province of Alberta. She is a Director of GASL and has a management role on the Premises.
6. The Defendant, Pam Andrew, is an individual resident in the Town of Jasper, in the Province of Alberta. She is a Director of GASL and has a management role on the Premises.
7. The Defendants, George Andrew, Stephania Andrew and Pam Andrew will be referred to collectively as the "Individual Defendants". At all material times the Individual Defendants were occupiers of the Premises, innkeepers and principals, directors, managers, employees or agents of GASL.
8. At all material times, the Plaintiff was a registered guest at the Premises, and was therefore a lawful visitor to the Premises.

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## Overview

9. This claim is brought by the Plaintiff, who was a registered guest at the Premises while the Premises were infested with parasitic insects commonly known as 'bed bugs'. The other Class Members were also registered guests at the Premises during this period.
10. Between at least August 30, 2014~~July 1, 2015~~ and October 27, 2015, the Premises experienced an infestation of bed bugs affecting all or a substantial percentage of the guest rooms on the Premises (the "infestation").
11. The presence of the Infestation was known to the Defendants and their employees, including through notice by Alberta Health Services. Between approximately July and September, 2015 Alberta Health Services conducted at least six inspections of the Premises and issued repair orders in respect of the Infestation. These orders were issued to GASL and to each of the Individual Defendants.
12. Notwithstanding this knowledge, the Defendants wilfully declined to or neglected to remedy the Infestation and continued to accept reservations and to house registered guests at the Premises.
13. The Plaintiff reserved a room at the Premises for two nights. She and her husband checked in on August 31, 2015.
14. On the morning of September 1, 2015, the Plaintiff's husband began to experience itching, but could not at that time identify the source of the itching. By the morning of September 2, 2015, he found numerous red welts covering his body.
15. On finding the red welts, the Plaintiff and her husband inspected the bed in their room at the Premises and discovered a number of bed bugs within the mattress. They captured several specimens and brought them to the front desk of the Premises, where the employee or representative of the Defendants acknowledged and demonstrated a prior awareness of the Infestation.

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16. As a result of their exposure to the Infestation, the Plaintiff and her husband were obligated to dispose of a substantial quantity of their personal belongings , including clothing, camping gear and luggage/baggage, and to purchase replacement items.

#### **The Class**

17. The Plaintiff brings this Action on her own behalf and on behalf of all individuals who were registered guests at the Premises between the dates of August 30, 2014 and October 27, 2015~~July 1, 2015 and September 30, 2015~~, and who suffered personal injuries and property loss or damage as a result of the Infestation.

#### **Negligence**

18. The Defendants owed the Class Members a duty of care not to harm them and a duty to take reasonable care to see that the Class Members were reasonably safe in using the Premises. There was a foreseeable risk of harm to the Class Members in that the Defendants continued to accept reservations and to house guests, notwithstanding that the Premises were subject to the Infestation.
19. The Defendants breached the duty of care owed to the Class Members by accepting reservations and housing the Class Members, notwithstanding that the Premises were subject to the Infestation. In so doing, the Defendants fell below the applicable standard of care, thus resulting in losses and damages to the Class Members. The Defendants are accordingly obliged to compensate the Class Members.

#### **Unfair Trading**

20. GASL entered into consumer transactions with the Class Members by accepting reservations and housing the Class Members on the Premises.
21. By housing the Class Members on the Premises during the Infestation, GASL engaged in unfair practices, and the Individual Defendants engaged in or acquiesced to those unfair practices.

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22. The unfair practices were directed at the Class Members, and the Class Members suffered losses and damages due to those unfair practices.

#### **Punitive and Exemplary Damages**

23. The conduct of the Defendants merits punitive and exemplary damages in that its conduct was high-handed, reckless, wanton, lacked care, lacked good faith, lacked diligence, was deliberate, wilful or wilfully blind, in disregard of the rights of the Class Members and consumers in general, and as such renders the Defendants liable to pay aggravated, exemplary and punitive damages.

#### **A Class Proceeding is Appropriate**

24. The allegations regarding breaches of duties owed to the Class Members are common to all of the claims of the proposed Class Members. A determination of the nature and extent of the duties owed and the extent of the negligence or wilful neglect of the Defendants is common to all of the claims made.
25. Further, whether the actions of the Defendants merit an award of punitive damages is a common issue that can be determined on a common basis.
26. A determination of the common issues will substantially advance the proceedings even though some issues relating to individual assessment of damages may remain to be determined.
27. Individual Class Members as individuals cannot match the resources of the Defendants. The individual claims of each class member would not be economical to pursue individually. The Class Members would therefore be denied access to justice in the absence of a class proceeding.
28. It is unlikely that an individual could or would seek prospective relief to deter future misconduct by the Defendants. An individual lawsuit would be unlikely to have any significant impact on the Defendants' policies, procedures and practices. This class proceeding will impact the Defendants, and other owners and operators of hotels, such

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- that they will have to ensure that their policies, procedures and practices are sufficient to protect their registered guests.
29. The Plaintiff and Class Members propose that the Trial of the common issues take place at the Court House in the City of Edmonton, in the Province of Alberta.
30. The Plaintiff pleads and relies upon the provisions of the *Class Proceedings Act*, SA 2003, c C-16.5, the *Alberta Rules of Court*, Alta Reg 124/2010, the *Occupiers Liability Act*, RSA 2000, c O-4, the *Innkeepers Act*, RSA 2000, c I-2, the *Fair Trading Act*, RSA 2000, c F-2, and the *Judgment Interest Act*, RSA 2000, c J-1, as amended.

**Remedy sought:**

31. The Plaintiff and Class Members seek:
- (a) An Order certifying this Action as a class proceeding and appointing the Plaintiff as a representative of a Class to be certified by the Court;
  - (b) Damages and losses suffered by the Class Members in such an amount as may be proven at trial;
  - (c) Punitive and exemplary damages against the Defendants in such an amount as the Court may deem just and appropriate in the circumstances;
  - (d) An Order, pursuant to s. 30 of the *Class Proceedings Act*, SA 2003, c C-16.5, directing an aggregate monetary award;
  - (e) An Order, pursuant to s. 32 of the *Class Proceedings Act*, SA 2003, c C-16.5, allowing for the use of standard claim forms or other documentary evidence or such other procedure as may be warranted under the circumstances;
  - (f) An Order that the damages be paid by the Defendants into a common fund and distributed to the Class Members in an appropriate manner as directed by the Court;

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- (g) Pre-judgment and post-judgment interest;
- (h) The costs of this Action on a substantial indemnity basis, or in such amount as the Court may direct;
- (i) The costs of providing any notices required pursuant to the *Class Proceedings Act*, SA 2003, c C-16.5;
- (j) The costs of administering the plan of distribution of the recovery in this Action; and
- (k) Such further and other relief as may be required and as this Honourable Court deems to be just and appropriate having regard to the circumstances.

#### **NOTICE TO THE DEFENDANTS**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at EDMONTON, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

#### **WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.