

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ST. LOUIS

SIXTH JUDICIAL DISTRICT

Case Type: Other Civil

Scheff Logging & Trucking, Inc. and
Associated Contract Loggers and Truckers
of Minnesota Inc., a Minnesota cooperative,

Plaintiffs,

v.

SUMMONS

Shawn Ray Etsitty, John Does 1-100,
and XYZ Corporation 1-100,

Defendants.

THIS SUMMONS IS DIRECTED TO: The above-named Defendants.

1. YOU ARE BEING SUED. The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no Court file number on this Summons.

2. YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS. You must give or mail to the person who signed this Summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at Hellmuth & Johnson, 8050 West 78th Street, Edina, Minnesota 55439.

3. YOU MUST RESPOND TO EACH CLAIM. The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS. If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A Default Judgment can then be entered against you for the relief requested in the Complaint.

5. LEGAL ASSISTANCE. You may wish to get legal help from a lawyer. If you

do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. ALTERNATIVE DISPUTE RESOLUTION. The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

DATED: January 23, 2020

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minnesota Statutes § 549.211, to the party against whom the allegations in this pleading are asserted.

By: s/ James V. F. Dickey
James V. F. Dickey (#393613)

STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DISTRICT COURT
SIXTH JUDICIAL DISTRICT
Case Type: Other Civil

Scheff Logging & Trucking, Inc. and
Associated Contract Loggers and Truckers Inc.,
a Minnesota cooperative,

Plaintiffs,

v.

**COMPLAINT
JURY TRIAL DEMANDED**

Shawn Ray Etsitty, John Does 1-100,
and XYZ Corporation/Foundation 1-100,

Defendants.

Plaintiff Scheff Logging & Trucking, Inc. (“Scheff” or “Plaintiff”), for its Complaint against the above-named Defendants, states and alleges as follows.

Summary

1. This is a case about eco-terrorism¹ in the State of Minnesota conducted by vandals whose violent disruptions caused over \$130,000 in damage to Plaintiff Scheff Logging & Trucking, Inc. (“Scheff”), a Minnesota logging company that has operated in Minnesota for over 30 years without prior incident. Scheff is a member of Plaintiff Associated Contract Loggers and Truckers Inc. (“ACLT”).

2. In late February 2019, eco-terrorists began targeting Scheff’s logging activities in St. Louis County, Minnesota because they believed that Scheff was clearing a right-of-way for

¹ “Eco-terrorism” is defined by Merriam-Webster as “sabotage intended to hinder activities that are considered damaging to the environment.” <https://www.merriam-webster.com/dictionary/ecoterrorism> (last visited Nov. 13, 2019).

the Enbridge Line 3 pipeline replacement project (“Line 3”). Ironically, Scheff’s logging activities had nothing to do with the Line 3 pipeline they were supposedly protesting.

3. Soon after disruptors from various anti-Line 3 groups arrived to disrupt Scheff’s lawful logging activities, Defendant Shawn Ray Etsitty and other individual defendants to be named intentionally vandalized Scheff’s equipment, causing over \$130,000 in damage to Scheff’s equipment and other consequential damages related to lost revenue and extra employment costs. In doing so, the vandals spilled oil, hydraulic fluid, and other contaminants into the ground.

4. Upon information and belief, MN350, Northfield Against Line 3, the Anti-Colonial Land Defense, and other non-governmental organizations with similar policy aims have supported these disruptions and trained Defendant Etsitty and other individuals in the destructive tactics used to damage Scheff. Upon information and belief, Clifford Martin, who is involved with Northfield Against Line 3 and MN350, has led direct action trainings and instructed trainees to use destructive tactics to stop lawful logging activity.

5. This lawsuit seeks an award of money damages against Etsitty and the other defendants and in favor of Scheff. Scheff specifically reserves the right to amend this Complaint pursuant to Minn. Stat. §§ 549.191 and 549.20 to add claims for punitive damages for Defendants’ malicious criminal activity, to add named defendants as they become known, and to seek pre- and post-judgment injunctive relief against repeat violations by any and all defendants.

Parties

6. Plaintiff Scheff Logging & Trucking, Inc. is a Minnesota corporation.

7. Plaintiff ACLT is a Minnesota cooperative with its principal place of business at 3961 Barker Rd. S., Gilbert, Minnesota 55741. ACLT is an association of more than 150 timber

industry companies that advocates on their behalf. In addition to Scheff, other members of ACLT have suffered injuries similar to those suffered by Scheff as described herein. ACLT seeks injunctive relief against the Defendants in this case in its capacity as an association of members who have both suffered injuries as described herein and whose interests are directly at stake in this action. ACLT has associational standing to sue in this action. *Builders Ass'n of Minn. v. City of St. Paul*, 819 N.W.2d 172 (Minn. Ct. App. 2012).

8. Defendant Shawn Ray Etsitty is an individual and, upon information and belief, resides in Mentore, New Mexico. Etsitty and the other Defendants committed acts of property destruction that damaged Plaintiff in Minnesota and in St. Louis County.

9. Defendants John Doe 1-100 are individuals who committed acts of property destruction or provided material support, or directed the actions of, or engaged in a conspiracy with the named Defendants to engage in acts of property destruction that damaged Plaintiff in Minnesota and in St. Louis County, or authorized, condoned, ratified, or adopted these acts.

10. Defendants XYZ Corporations/Foundations (“Corporation Defendants”) are corporate entities or charitable foundations that provided material support, training, directed the actions of, or engaged in a conspiracy with the named Defendants to engage in acts of property destruction that damaged Plaintiff in Minnesota and in St. Louis County or authorized, condoned, ratified, or adopted these acts.

Venue

11. Venue is proper in this Court because the vandalism at issue took place within St. Louis County, Minnesota.

Facts

12. Scheff is a member of ACLT.

13. St. Louis County hired Scheff to remove lumber and sell the wood to lumber mills in late 2018 (“Logging Project”). Scheff began working in February 2019.

14. Scheff is often hired to do logging projects to remove forest overgrowth, which keeps St. Louis County and other northern Minnesota forests healthy.

15. The Logging Project required Scheff to log near a right-of-way for the Line 3 pipeline, but Scheff’s logging operations were not related to the construction of the pipeline or clearing for the pipeline.

16. Scheff began moving equipment to the area to be logged and began logging operations in accordance with their contract with St. Louis County in February 2019.

17. After logging operations began, Scheff crew members witnessed a group of individuals walking around the woods near their logging site.

18. The group appeared to be watching the Scheff crew work, but never made contact with Scheff’s working staff. Scheff’s staff attempted to converse with the group, but they quickly disappeared back into the surrounding forest.

19. Scheff continued to work as normal after the run-in with the group and left the logging site at the end of the work day.

20. Upon returning to the logging site the next day, the Scheff crew found that the keys to their logging equipment were missing. They were forced to stop operations until they could purchase replacement keys from locations in Virginia, Minnesota and Duluth. They continued operations upon obtaining replacement keys. Scheff’s crew worked until the end of their shift and subsequently left the logging site for the day.

21. Later that same night, and into the early hours of the following day, Shawn Ray Etsitty and, upon information and belief, several other individuals, trespassed onto the logging site and vandalized Scheff's logging equipment.

22. Defendants poured sand into a machine's radiator and oil reserve.

23. Defendants applied a glue-like material to the keyhole of a machine's cab, which prevented any operator from being able to insert a key to start the machine.

24. Defendants broke into a machine and removed the dashboard, cut wires hidden behind the dashboard, and damaged the oil reservoir.

25. Defendants also ruined other equipment by pouring water into engine compartments, cutting hydraulic hoses (thus spilling hydraulic fluid into the ground), and cutting wires.

26. In summary, the damages were to four machines:

- a. 2014 Caterpillar Feller Buncher with Counter Weight and Sawhead;
- b. 2013 John Deere Grapple Skidder;
- c. 2004 John Deere Delimber with Risley 2100;
- d. 2015 Barko Loader with Savage Self-Propelled Car.

27. Because of Defendants' eco-terrorism, Scheff was unable to continue the Logging Project until they were able to replace and repair the equipment that was damaged, which caused delay.

28. Scheff was only able to resume the Logging Project approximately 8 to 10 days after Defendants destroyed and damaged Scheff's logging equipment.

29. Defendants caused approximately \$30,768.56 in damage to the machines described above.

30. In addition, Defendants caused damages in the amount of:
 - a. \$29,120.00 in extra employee wages expended because of the destruction;
 - b. Because Scheff was paid by lumber yards based on the weight of the timber they logged, they lost about 15-20% in their total revenue, and gross income loss amounted to \$77,994.15.
31. In total, Scheff was damaged in the amount of approximately \$137,882.51.
32. Scheff's insurance partially covered these losses in the amount of \$37,165.61.
33. Scheff's losses because of Defendants' eco-terrorism, after deducting the amount recouped through insurance, amount to at least \$100,716.90.
34. After Scheff started working again for about a day, disruptors arrived at the site and blocked Scheff's right of way for hours.
35. The following day, the disruptors blocked the roads so that Scheff could not continue work.
36. Law enforcement arrived at the scene and told the disruptors that they had to stop blocking the roads. Only after being instructed to move by law enforcement did the disruptors stop blocking the roads.
37. The disruptors held signs and banners up, some of which are depicted in the attached **Exhibit A**.
38. The disruptors, upon information and belief, were organized, trained, and directed by groups including Stop Line 3, Ginew, MN350, Anti-Colonial Land Defense, Northfield Against Line 3, and others.

39. Upon information and belief, attorney Tara Houska, who is believed to be an agent and spokesperson of Honor the Earth, Ginew, and MN350, was in attendance at the Scheff logging site disruption the day after the vandalism.

40. St. Louis County police caught Defendant Etsitty and arrested him. Etsitty was charged with felony property destruction under Minn. Stat. § 609.595.1(4).

41. In a related incident, Etsitty pleaded guilty to felony destruction of property relating to his eco-terrorism against a project in Carlton County pursuant to Minnesota statute §609.595.1(4). *State v. Etsitty*, No. 09-CR-19-243. Etsitty pleaded guilty to property destruction in that case on June 26, 2019.

42. Along with Etsitty, two other individuals were charged with property destruction in the Carlton County case. *See* Case Nos. 09-CR-19-244 and 09-CR-19-245. One of those two individuals, Harvey Dale Goodsky, Jr., has been associated, upon information and belief, with Tara Houska, Winona LaDuke, and Tania Aubid.

43. In the Carlton County cases, Etsitty and the other defendants were ordered to pay statutory fines and restitution payments.

44. Upon information and belief, Defendants did not act alone either in the conception or execution of their eco-terrorist activities.

45. Upon information and belief, Tara Houska, Clifford Martin, and Defendant Etsitty are associated with one another and with Stop Line 3, Ginew, MN350, Anti-Colonial Land Defense, Northfield Against Line 3, and others.

46. Upon information and belief, Clifford Martin of Northfield against Line 3 and MN350 has organized or helped organize “direct action” training at which Defendant Etsitty has attended. Upon information and belief, despite his conviction in Carlton County and criminal

charges in St. Louis County, Etsitty continues his involvement with MN350, Northfield Against Line 3, and others.

47. Upon information and belief, in these “direct action” training sessions, Clifford Martin, Stop Line 3, Ginew, MN350, Anti-Colonial Land Defense, Northfield Against Line 3, and others have trained individuals to disrupt pipeline modernization efforts by damaging equipment and blocking work.

48. Upon information and belief, Stop Line 3, Ginew, MN350, Anti-Colonial Land Defense, Northfield Against Line 3, and other organizations provide material support and instruction on how to damage pipeline property and construction equipment, and have provided material support and instruction on how to damage pipeline property and construction equipment to Defendant Etsitty, or authorized, condoned, ratified, or adopted these acts, resulting in the eco-terrorism committed by Etsitty and others against Scheff.

49. Plaintiff demands a trial by jury.

50. Plaintiff has no remedy at law for Defendants’ continuing conspiracy to disrupt its logging efforts in St. Louis County.

CLAIMS FOR RELIEF

Count One – Intentional Destruction of Property

51. The preceding paragraphs are incorporated herein by reference.

52. Defendants’ aforementioned willful and malicious, intentional conduct resulted in damage to Plaintiff’s property in an amount greater than \$50,000, which makes Defendants, and each of them, jointly and severally liable to Plaintiff for damages pursuant to Minn. Stat. § 604.02 and at common law.

Count Two – Trespass to Chattels and Conversion

53. The preceding paragraphs are incorporated herein by reference.

54. Defendants' aforementioned willful and malicious, intentional conduct dispossessed Plaintiff of its work machines and damaged them in a manner that made them unusable for days and required significant repairs.

55. Defendants are therefore jointly and severally liable to Plaintiff in an amount greater than \$50,000 for the damage to the work machines and the resulting losses because the work machines were not able to be used for at least 8 to 10 days.

Count Three – Intentional Interference With Contract

56. The preceding paragraphs are incorporated herein by reference.

57. Plaintiff had a contract with St. Louis County whereby it would remove timber from St. Louis County land in return for compensation, and it would be able to sell that timber to lumber yards for compensation.

58. Defendants knew that Plaintiff was logging timber for compensation under a contract.

59. Defendants intentionally, willfully, and maliciously procured breach of that contract without justification.

60. Plaintiff has been damaged by Defendants' willful and malicious interference as described herein in an amount greater than \$50,000.

Count Four – Intentional Interference With Prospective Business Advantage

61. The preceding paragraphs are incorporated herein by reference.

62. Scheff has a reasonable expectation of economic advantage in terms of its business relationship with St. Louis County.

63. Defendants knew that Scheff was doing profitable work in the Logging Project.

64. Defendants intentionally, willfully, and maliciously interfered with Scheff's reasonable expectation of economic advantage, and their interference is independently tortious as set forth herein.

65. In the absence of Defendants' wrongful acts, it is reasonably probable that Scheff would have realized more profit from the Logging Project.

66. Scheff has been damaged by Defendants' willful and malicious actions described herein.

Count Five – Injunctive and Declaratory Relief

67. The preceding paragraphs are incorporated herein by reference.

68. Upon information and belief, Defendant Etsitty and the John Doe and Corporation XYZ Defendants continue to work together in conspiracy to deprive Scheff of its reasonable expectation of economic advantage by interfering with logging projects in St. Louis County.

69. No remedy at law will adequately compensate Scheff or ACLT for Defendants' continued conspiracy; rather, only temporary restraint and permanent injunctive relief will adequately remedy Scheff and ACLT's injuries.

70. If injunctive relief is not granted, Scheff and ACLT will suffer irreparable harm by the chilling effect Defendants' actions have on Scheff's and ACLT's members' reasonable expectation of business advantage.

Count Six – Special Damages

71. Pursuant to Minn. R. Civ. P. 9.07, Plaintiff is entitled to special damages, as more particularly described above, in the form of lost profits caused by the delay in their logging activities in an amount greater than \$50,000.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- A. An award of money damages in an amount greater than \$50,000 against Defendants in an amount to be determined at trial;
- B. A declaration that Defendants are jointly and severally liable for those money damages;
- C. An award of costs and disbursements;
- D. Temporary restraint and preliminary and permanent injunctive relief against any and all defendants;
- E. Punitive damages, if the Court approves amendment of this Complaint to that effect;
- F. An award of reasonable attorney fees, if the Court approves a post-trial motion to that effect; and
- G. Any other relief that the Court deems just.

DATED: January 23, 2020

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