



FORM 109
(RULE 22-2(2) AND (7))

This is the 1st affidavit of Heidi Semkowich
In this case and was made on
the 8 day of December, 2024.

Affidavit has been sworn or affirmed by video conference

No. 58772
Vernon Registry

In the Supreme Court of British Columbia

Between

Colton Kevin Kumar, 1304139 B.C. LTD. and Kevin Anthony Kumar

Plaintiff(s)

and

John McDonald, Heidi Semkowich and McDonald Paralegal Services Ltd.

Defendant(s)

AFFIDAVIT

[Rule 22-2 applies to affidavits and Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

I, Heidi Semkowich, of Edmonton, Alberta, Paralegal, MAKE OATH AND SAY THAT:

1. I am one of the named Defendants in the above action, and as such I have a personal knowledge of all matters hereinafter deposed to except where same are stated to be on information taken from files kept in the ordinary course of business, in which case I do verily believe all such matters to be true.
2. I currently reside in Sherwood Park, Alberta, and am ordinarily resident of the Province of Alberta. At no time have I resided, or carried on business, in the Province of British Columbia.
3. I am the sole shareholder and Director of HMS Paralegal Services Inc. HMS Paralegal Services Inc. is a body corporate duly incorporated pursuant to the laws of the Province of Alberta.

Terry Kerslake

4. On or about January 15, 2024, I was contacted by Terry Kerslake (“Terry”) to assist with preparation of a Statement of Defence in a litigation he was the Defendant in.
5. Terry signed a retainer agreement with HMS Paralegal Services on January 16, 2024, and I began reviewing the documents to get up to speed on the matter. Attached and marked as **Exhibit “A”** is a copy of the retainer agreement.
6. On or about January 16, 2024, Terry advised that the contact at his “credit counselling” agency was Colton Kumar, and he provided the phone number to reach Colton at. Attached and marked as **Exhibit “B”** is a copy of the email from Terry providing Colton Kumar’s name and phone number.
7. The Statement of Defence was filed in Terry’s matter, and Plaintiff’s counsel ultimately filed an application for Summary Judgment. Summary Judgment was granted in favour of the Plaintiff on June 25, 2024.
8. On or about August 28, 2024, I received a phone call from Terry requesting coaching on how to prepare a Notice of Motion to adjourn an upcoming court date, in relation to a separate matter than outlined in my retainer agreement.
9. During the course of the phone call with Terry, I provided direction on requesting an adjournment of the upcoming court date. I suggested that Terry contact opposing counsel and request the matter be adjourned to a date in October.
10. Terry then advised that Colton Kumar had provided him with step-by-step instructions on how to prepare and serve a Notice of Motion to adjourn the matter. I asked Terry if he would mind forwarding me a copy of the email from Colton Kumar, and he agreed to do so. Attached and marked as **Exhibit “C”** is a copy of the email, dated August 28, 2024, from Colton Kumar to Terry.
11. At all material times, Terry was, and is, a client of HMS Paralegal Services. At no time was I retained by the Plaintiffs with respect to Terry’s matter.

Tim Kohut

12. On August 22, 2024, I received a referral from McKenzie Legal Services for a party seeking assistance with formatting appeal paperwork. Attached and marked as **Exhibit “D”** is a copy of the email I received from McKenzie Legal Services.
13. I spoke with Colton Kumar on the phone briefly on August 22, 2024 at 2:48 p.m. and was advised that the people I would be retained by were “Tim & Tara”.

14. Colton Kumar advised that invoices could be sent to him as he had offered to pay Tim & Tara's invoices for my services.
15. At 3:13 p.m. on August 22, 2024, I received a call from Tara Holberton. During the call I requested that Tara provide me with all relevant documents pertaining to the appeal.
16. On August 22, 2024, I received an email from Tara Holberton providing all of the requested documents pertaining to the appeal. Attached and marked as **Exhibit "E"** is a copy of the email from Tara Holberton.
17. On August 26, 2024, through a series of emails between Tara Holberton and myself, I received additional documents related to the RBC matter, which is the matter Tim & Tara asked me to assist with. Among the documents provided were two Memorandum of Decision documents from The Honourable Mr. Justice J.G. Nielsen, Chief Justice of the Court of King's Bench of Alberta. Attached and marked as **Exhibit "F"** is a copy of the email chain.
18. After reviewing the additional documents provided, I contacted Tara Holberton to provide guidance on the steps that needed to be taken to try and reinstate their appeal, which had been struck.
19. I also explained some paragraphs from Justice Nielsen's Memorandums of Decision that I felt were important, chiefly that Colton Kumar was subject to a Restriction Order, and therefore, could not be involved in their matter in any way. Attached and marked as **Exhibit "G"** is a copy of my email to Tara.
20. On August 26, 2024, I also sent an email to Colton Kumar letting him know that Justice Nielsen's Order prohibits him from being involved in Tim & Tara's matter. Attached and marked as **Exhibit "H"** is a copy of my email to Colton.
21. On August 28, 2024, I spoke with Colton Kumar on the phone to discuss Justice Nielsen's decisions. During the course of the phone call I advised Colton that Justice Nielsen's decisions prohibited Colton from being involved in the matter. I further advised Colton that I would not be discussing Tim & Tara's matter with him, or taking instructions from him. Attached and marked as **Exhibit "I"** are my notes from the telephone conversation.
22. At no time did I request, or receive, a retainer from the Plaintiff, Colton Kumar, or any of the Defendants.
23. On August 29, 2024, a retainer agreement was sent to Tim Kohut & Tara Holberton. Attached and marked as **Exhibit "J"** is a copy of the retainer agreement.
24. On or about September 2, 2024, a monthly invoice in the amount of \$511.88 was prepared for the Kohut matter. The invoice was emailed out to Tim Kohut on September 3, 2024. Attached and marked as **Exhibit "K"** is a copy of the email and invoice sent to Tim Kohut.

25. The invoice was emailed to Colton Kumar on September 16, 2024. Attached and marked as **Exhibit "L"** is a copy of the email sent to Colton Kumar.
26. Payment for the invoice was received via e-transfer on September 16, 2024. Attached and marked as **Exhibit "M"** is a copy of the e-transfer email.
27. At all material times Tim Kohut & Tara Holberton were, and are, clients of HMS Paralegal Services.
28. At no time have Colton Kumar, Kevin Kumar, or 1304139 B.C. Ltd. been clients of HMS Paralegal Services.

John McDonald/McDonald Paralegal Services

29. On August 29, 2024, I contacted my colleague, John McDonald, to have a 'case review' of the two files I had, with very similar facts. During the course of the phone call, I mentioned that Justice Nielsen had given two separate Memorandums of Decision in the one matter.
30. After a lengthy discussion about the contents of Justice Nielsen's Memorandums of Decision, John McDonald and I determined that both Terry Kerslake and Tim Kohut required independent legal advice as they both were at risk of incurring significant financial penalties in court costs if they continued to pursue their respective matters in court.
31. With Terry's and Tim's permission, a joint meeting with all parties, including John McDonald, was scheduled for September 11, 2024.
32. During the meeting on September 11, 2024, the following details came to light:
 - a. Tim Kohut & Tara Holberton were paying Colton Kumar \$1,100.00 per month;
 - b. Terry Kerslake was paying Colton Kumar \$2,100.00;
 - c. Tim & Tara had been paying Colton Kumar for approximately 8 months;
 - d. Terry Kerslake had been paying Colton Kumar for approximately one year;
 - e. All parties were told that Colton Kumar had secured a "private lender" who would pay all of their debts, and the monthly fees they were paying to Colton were repayment of the loan from the "private lender";
 - f. As of the date of the meeting, Tim and Tara and Terry were all still receiving calls from banks and collection agencies about their outstanding debts.
33. During the meeting, John McDonald and I strongly encouraged Terry and Tim and Tara to seek independent legal advice with respect to their ongoing legal matters. We also encouraged them to contact a bankruptcy trustee to discuss their debt repayment options.

34. I make this Affidavit in support of an Application to Strike the above noted action.

SWORN BEFORE ME at the City of)
Sherwood Park, in the Province of Alberta)
on the 18 day of December, 2024.)

)
)
)
)
)
_____)

A Notary Public in and for the)
Province of Alberta)
Gregory L. Genest
Barrister and solicitor

H. Semkovich

Heidi Semkovich



Our File #: 2024-0001 HMS

This is Exhibit "A" referred to in the Affidavit of

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024

Gregory L. Genest
Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor

Via Email: tko@telusplanet.net

January 16, 2024

Terry Kerslake
Box 264
Seba Beach, AB T0E 2B0
Tele: (780) 721-8757

Dear Terry:

Re: Retainer Agreement-Paralegal Services
Between: Terry Kerslake and-HMS Paralegal Services

Thank you for choosing HMS Paralegal Services to assist you through your matter. This Agreement serves to clarify the expectations of you, "the Client", and myself, of HMS Paralegal Services. Prior to the commencement of any services, a completed and signed copy of this letter must be received by HMS Paralegal Services, in person or via email, whichever is more suitable to both parties.

ACKNOWLEDGEMENT

The Client is expressly aware that staff at HMS Paralegal Services are not lawyers and they provide **non-lawyer** legal support to parties focused on resolution and effective solutions to their matter. **Legal advice cannot and will not be provided by staff of HMS Paralegal Services.**

WAIVER

The employee of HMS Paralegal Services, named below, expressly disclaims any implied or expressed warranty in respect of services provided. In no event shall the service provider be liable for any damages whatsoever, including without limitation, damages for loss of profits, business interruption, loss of business or personal information, or other pecuniary loss, or general or special damages for shock, trauma or stress or other cause arising from the use, inability to use documentation or outcome of your legal matter. HMS Paralegal Services will correct and edit any errors made by them that render the documents not fileable. No extra charge is applicable for correcting errors made by staff of HMS Paralegal Services.

1064 Foxwood Crescent
Sherwood Park, AB T8A 4T0
Phone: (780) 993-1390
Email: heidi@hmsparalegalservices.ca
www.hmsparalegalservices.ca

STORAGE OF CLIENT FILES/INFORMATION

HMS Paralegal Services uses cloud-based servers to store client files and/or information. By signing this retainer agreement, the client consents to the storage of information pertaining to their matter on cloud based servers.

COMMUNICATION

HMS Paralegal Services will routinely communicate with the client about their matter via telephone, zoom meetings and email. By signing this retainer agreement, the client expressly consents to communication via telephone, zoom meetings and email.

RETAINER**Services Retained**

The Client hereby retains the services of HMS Paralegal Services to provide paralegal services with respect to assisting with the drafting and filing a Statement of Defence in a civil litigation matter.

Based on the Client's representations noted above and contingent on there being no further developments the Client shall pay a fee of \$125.00 per hour. Any drafting of legal documents, if required, will be charged at the same rate. The client shall be charged for time spent:

- Reviewing and drafting email correspondence;
- Virtual and/or Telephone Meetings with client;
- Research, if necessary;
- Document drafting, formatting, and/or review; and
- Any other services required over the duration of this matter.

Receipt of this fully executed Retainer Agreement will mark the commencing of the parties' professional engagement.

Termination of Professional Relationship

The Client has the right to terminate the professional relationship between themselves and HMS Paralegal Services upon written notice of the same received by HMS Paralegal Services.

Subject to our obligations to you to maintain professional standards of conduct, we reserve the right to terminate our services to you for good reasons, which include, but are not limited to:

- The Client's failure to cooperate with reasonable requests;
- If our continuing to assist would be unethical or impractical;
- If our retainer has not been paid; or
- If you fail to pay any outstanding balance when due.

In the event the professional relationship between the Client and HMS Paralegal Services is terminated, the Client will be billed for time and services provided to date and refunded any balance of funds held by HMS Paralegal Services.


Method of Payment

Fees are payable by e-transfer. The Client may e-transfer the fees payable to heidi@hmsparalegalservices.ca.

Thank you for engaging the services of HMS Paralegal Services. We look forward to assisting you.

Yours truly,

HMS PARALEGAL SERVICES

Per: 
Heidi Semkowich
Registered Paralegal, Legal Coach
HMS Paralegal Services

E&OE

I, Terry Kerslake, hereby agree to the terms set out herein and engage the services of HMS Paralegal Services to provide the within noted services for the fees set out herein.


Per: 

Date: JAN 16/2024

This is Exhibit "B" referred to in the Affidavit of

Heidi Sankowich

Sworn before me this 18 day of December
A.D., 2024.


Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory H. Genest
Barrister and Solicitor

From: [Terry Tko](#)
To: [Heidi Counce](#)
Subject: Fwd: Retainer Agreement
Date: January 16, 2024 6:19:50 PM

Sent from my iPhone

Begin forwarded message:

From: Terry Tko <tko@telusplanet.net>
Date: January 16, 2024 at 10:57:18 AM MST
To: Terry W Kerslake <kerslake.terry@cleanharbors.com>
Subject: Re: Retainer Agreement

Hey. Heidi. The company I went through is Beat the Banks. The person I was dealing with was Coltan Kumar. PH: 250 306 1534. Tks. Terry.

Sent from my iPhone

On Jan 16, 2024, at 10:45 AM, Terry Tko <tko@telusplanet.net>
wrote:

Sent from my iPhone

Begin forwarded message:

From: Terry Tko <tko@telusplanet.net>
Date: January 16, 2024 at 10:38:39 AM MST
To: Terry W Kerslake
<kerslake.terry@cleanharbors.com>
Subject: Fwd: Retainer Agreement

Sent from my iPhone

Begin forwarded message:

From: heidi@hmsparalegalservices.ca
Date: January 16, 2024 at 10:26:10 AM

Heidi Samborich

Sworn before me this 15 day of December
A.D., 2024.

[Signature]
Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Greg L. Govey
Barrister and Solicitor

From: [Terry Kerslake](#)
To: [Heidi Legal Councel](#)
Subject: Fwd: motion to adjourn capital one court date
Date: August 28, 2024 2:21:20 PM

Hey. Heidi. This is what Colton wanted me to file also. . Tk.

Sent from my iPhone

Begin forwarded message:

From: Power Is In The People ! <unitedwestandpeople@gmail.com>
Date: August 28, 2024 at 10:52:47 AM MDT
To: Terry Kerslake <tko196969@gmail.com>
Subject: motion to adjourn capital one court date

.To request an extension given the circumstances, you should focus on arguing procedural fairness and the lack of reasonable notice. Here's a step-by-step approach Terry can take:

1. **Draft a Motion for an Extension of Time:** Terry should prepare a motion to the court requesting an adjournment or extension of the hearing date. This document should outline the reasons why the extension is necessary.
2. **Key Points to Include in the Motion:**
 - **Lack of Adequate Notice:** Emphasize that the opposing counsel did not consult Terry regarding the hearing date and only provided seven days' notice, which is insufficient for proper preparation.
 - **Failure to Communicate:** Highlight that opposing counsel did not discuss or confirm the scheduled date with Terry, which did not allow him to make necessary preparations or consider his availability.
 - **Prejudice Due to Short Notice:** Argue that the short notice would cause significant prejudice to Terry's ability to prepare a proper response or seek legal advice if needed.
 - **Efforts Made to Seek Clarification:** If Terry tried to reach out for clarification or additional time and was not adequately responded to, he should mention those attempts.
3. **Request an Adjournment to a Future Date:** Specify that Terry is requesting the court to adjourn the hearing to a date that provides adequate time for preparation, ideally at least 30 days from the date of the request.
4. **Submit Supporting Evidence:** Attach the email from opposing counsel as evidence of the short notice, and include any communication attempts made by Terry to resolve the scheduling issue.

5. **File and Serve the Motion:** Ensure that the motion is filed with the court and served on the opposing counsel as soon as possible, ideally with a proof of service.

Here is an example of the motion

COURT FILE NUMBER: [Insert Court File Number]

COURT: Court of King's Bench of Alberta

JUDICIAL CENTRE: [Insert City]

PLAINTIFF/APPLICANT: [Insert Plaintiff's Name]

DEFENDANT/RESPONDENT: [Insert Defendant's Name]

NOTICE OF MOTION

TO: [Opposing Counsel Name]

[Law Firm Name]

[Address]

TAKE NOTICE that an application will be made by the Defendant, Terry Kerslake, before the Honourable Justice [Name of Justice, if known], at the Court of King's Bench of Alberta, Judicial Centre of [City], on a date and time to be determined by the Court, for the following relief:

RELIEF SOUGHT

1. An Order adjourning the hearing of the Notice of Application dated [Date of Notice of Application] to a future date, providing the Defendant at least 30 days' notice to adequately prepare.
2. An Order granting any other relief the Court deems appropriate.

GROUND FOR THIS APPLICATION

1. **Insufficient Notice:** The Notice of Application scheduled for September 3, 2024, was served on Terry Kerslake only seven days before the scheduled hearing, on [Date Received], without any prior consultation or agreement regarding the hearing date.
2. **Failure to Communicate:** Opposing counsel did not communicate or seek Terry's availability before setting the hearing date, which is inconsistent with procedural fairness and reasonable scheduling practices.
3. **Prejudice Due to Short Notice:** The insufficient notice period does not allow Terry adequate time to prepare a proper response to the application, seek necessary legal advice, or gather evidence to address the claims made in the Notice of Application.
4. **Efforts to Seek Clarification:** [If applicable, describe any attempts made by Terry to seek clarification, request an extension from opposing counsel, or any other efforts to resolve this issue.]
5. **Justice of the Case:** An adjournment would allow the matter to be heard on

the merits, with both parties having adequate time to prepare, thereby ensuring a fair and just hearing.

MATERIALS TO BE RELIED UPON

1. This Notice of Motion.
2. Affidavit of Terry Kerslake, sworn [Date], in support of this application.
3. The email from opposing counsel dated [Date], providing notice of the application hearing.
4. Any other evidence or submissions that the Court may allow.

PROPOSED METHOD OF HEARING: [Indicate if the hearing will be in person, by telephone, or via video conference, if applicable.]

DATED: [Date]

SIGNED:

[Your Name]

[Your Address]

[Your Contact Information]

AFFIDAVIT IN SUPPORT OF MOTION

The affidavit should include:

- A statement by Terry detailing the date he received the Notice of Application.
- The lack of communication from opposing counsel about scheduling.
- The reasons why Terry is unable to adequately prepare within the time given.
- Any relevant correspondence attempting to resolve the issue.

Here is an example of the affidavit

COURT FILE NUMBER: [Insert Court File Number]

COURT: Court of King's Bench of Alberta

JUDICIAL CENTRE: [Insert City]

PLAINTIFF/APPLICANT: [Insert Plaintiff's Name]

DEFENDANT/RESPONDENT: [Insert Defendant's Name]

AFFIDAVIT OF TERRY KERSLAKE

I, Terry Kerslake, of the City of [City], in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. **I am the Defendant** in this matter, and as such, have personal knowledge of the facts and matters hereinafter deposed, except where stated to be based on information and belief, and where so stated, I verily believe them to be true.
2. **On [Date Received],** I received an email from [Opposing Counsel's

Name], counsel for the Plaintiff, Capital One Bank, attaching the following documents:

- Notice of Application to Amend
- Affidavit in Support of the Application
- Proposed Order and Counterclaim of Capital One Bank

Attached hereto and marked as Exhibit "A" is a true copy of the email dated [Date] from [Opposing Counsel's Name].

3. **The Notice of Application states** that the hearing is scheduled to take place on September 3, 2024, at 10:00 a.m., giving me only seven days' notice to prepare for the hearing.
4. **Opposing Counsel did not consult me** regarding the date of the hearing and did not provide any opportunity for me to provide my availability or request an alternate date.
5. **Due to the short notice**, I am unable to adequately prepare my response, seek legal advice, or gather necessary evidence to properly address the issues raised in the Notice of Application.
6. **I attempted to communicate with [Opposing Counsel's Name]** via [email/phone] on [Date], requesting an extension or adjournment of the hearing date, but [describe response or lack of response]. Attached hereto and marked as Exhibit "B" is a true copy of my communication with opposing counsel.
7. **I am not a lawyer**, and the complex legal nature of the application requires more time for me to seek advice and prepare adequately to ensure that my rights are protected.
8. **I respectfully request** that the Court grant an adjournment of the hearing to a later date, allowing at least 30 days' notice, so that I can have a fair opportunity to respond.
9. **This request is not made for the purpose of delay**, but rather to ensure that justice is served by allowing both parties to be adequately prepared for the hearing.
10. **I believe it is in the interests of justice** to grant the adjournment requested.

SWORN BEFORE ME at the City of [City], in the Province of Alberta, this ____ day of _____, 2024.

Commissioner for Oaths in and for the Province of Alberta

Terry Kerslake

This is Exhibit "D" referred to in the Affidavit of

Heidi Semkovich

Heidi Semkovich

From: Ryan McDougall <ryan@mckenzielegalservices.ca>
Sent: August 22, 2024 10:58 AM
To: heidi@hmsparalegalservices.ca
Subject: Potential new file

Sworn before me this 18 day of December
A.D., 2024.

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Greg L. Genest
Barrister and Solicitor

Hello,

I just received a voicemail from Colton indicating "he has someone who is looking for assistance with formatting appeal paperwork".

He would like a call back (with a quote). 250-306-1534

😊

Aug-22/24
2:48 pm - 2:57 pm

Ryan McDougall, MA, PM, Q.Med, ARP, CLC
Mediator, Paralegal, Certified Legal Coach



McKenzie Legal Services
403-343-1135
www.mckenzielegalservices.ca

Debt dispute case

- case was dismissed in KB

- have a CAMS account already

- Names are: Tara & Tim

↳ being retained by

Court of Appeal ↳ colton will pay invoices only

Talal Kumar Colton Kumar

- colton will have Tim + Tara get in touch with me directly to discuss matter

As colton is paying, get copy of DL + get his mailing address (to have on file).

This is Exhibit "E" referred to in the Affidavit of

Heidi Semkovich

Sworn before me this 18 day of December
A.D., 2024


Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor

From: [Tara Holberton](#)
To: heidi@hmsparalegalservices.ca
Subject: Fwd: Tim Kohut - Appeal
Date: August 22, 2024 3:16:48 PM
Attachments: [2024-07-12 Civil Appeal Commencement Letter.pdf](#)
[2024-07-11 Letter - Ban Status Received.pdf](#)
[2024-07-11 Notice of Appeal.pdf](#)
[2024-07-22 Letter from CMO Privacy Information.pdf](#)
[2021-08-13 Certificate of Registrar Late Appeal Record \(Civil\).pdf](#)
[Tim Factum.pdf](#)

Hi,

You were recommended by Colton, to help us reinstate our appeal. I've attached all relevant documents, I believe, if there is anything missing please let me know!

Thanks!

Tara Holberton
Intrinsic Illumination Inc.



780-604-6745
Edmonton Window Medics
[Sendit Academy](#)

This is Exhibit "F" referred to in the Affidavit of

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024.

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor

From: [Tara Holberton](#)
To: [Heidi Semkowich](#)
Subject: Re: Tim Kohut - Appeal - URGENT
Date: August 26, 2024 12:54:34 PM
Attachments: [Statement of Claim.pdf](#)
[Noting in default rbc.pdf](#)
[Stmt of defense against RBC 09627.pdf](#)
[RBC Statement of Claim 05588.pdf](#)
[Statement of claim RBC 08262.pdf](#)
[24.08.20 Nielsen - Kumar management order.pdf](#)
[24.08.20 Nielsen - Memorandum 2.pdf](#)

I'm sending you everything, not sure what you need! Because there are like 3 ongoing cases with RBC, 2 where we're suing them, and 1 where they're suing us. So I'm not sure which the appeal applies to. And you already have all the appeal stuff I have!

Thanks!

Tara Holberton
Intrinsic Illumination Inc.



780-604-6745
Edmonton Window Medics
[Sendit Academy](#)

On Mon, Aug 26, 2024 at 11:55 AM Power Is In The People !

<unitedwestandpeople@gmail.com> wrote:

Hey Tara, your record of appeal will consist of your statement of claim against PC financial, the memorandums from K.G.Neilson & your notice of appeal!

On Mon, Aug 26, 2024 at 10:05 AM Tara Holberton <intrinsicillumination@gmail.com> wrote:

I have not requested any transcripts, and I don't know about any appeal record. Is that the same thing as a factum or is that different?

Tara

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024.

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Mon, Aug 26, 2024 at 3:51 PM

Gregory L. Ganest
Barrister and Solicitor

RE: Tim Kohut - Appeal

Heidi Semkowich <heidi@hmsparalegalservices.ca>
To: Tara Holberton <intrinsicillumination@gmail.com>

Hi Tara,

Thank you for getting back to me with the extra documents your provided. Ok, from what I can tell, the transcripts (appeal books) were not ordered, and the Appeal Record has not been prepared. This is the reason that the appeal was struck from the register. The first step in this is to see if we can get the appeal restored. The Alberta Rules of Court are very specific in how this must happen.

Rule 14.65(1) states:

An appeal or application for permission to appeal that has been struck by operation of these rules or the provisions of any order, or by failure of any party to appear when required, may be restored

- a) with the filed written consent of the parties or by order of a single appeal judge on application under [rule 14.47](#),
and
- b) on the payment of the fee for an application to restore an appeal in Schedule B.

14.65(3)(b) states:

An appeal or application is deemed to have been abandoned if no application to restore an appeal or application for permission to appeal has been filed, served and granted

- (b) for a fast track appeal, within 3 months after having been struck, dismissed or deemed abandoned

So the first thing that procedurally needs to be done is for you or Tim to reach out to counsel for RBC to inquire whether they will consent to the appeal being reinstated. If they are willing to consent, a letter outlining the same will need to be filed at the Court of Appeal (via CAMS).

If counsel for RBC is not willing to consent to the appeal being reinstated, then you will have to make an application in the Court of Appeal to have the appeal reinstated. I cannot say if such an application would be successful. The fee to make an application to restore an appeal is \$200.00 for the first restoration, \$500.00 for the second, and \$1,000.00 for the third and any subsequent restorations. If this goes the way of an application before a Justice of the Court of Appeal, Tim will need to be prepared to discuss why the steps missed were not completed.

I also read through both Memorandums of Decision of Justice Nielsen and there are some relevant points that I would like to draw your attention to. These points are specific to the Memorandum of Decision filed on August 20 (the 29 page decision).

On page 15, of his decision, Justice Nielsen states:

1. Paragraph 58 - Action No. 2403 05588 has been stayed. This means that the action is currently not proceeding.
2. Paragraph 60 – The court has ordered that Tim pay \$25,000.00 to the court for security for costs. This payment must be made by September 6.
3. Paragraph 61 (1)-(3) – Justice Nielsen outlines what will happen if the \$25,000.00 is not paid into court, namely: The default judgment against RBC will be set aside, the lawsuit will be struck, and Tim will be required to pay RBC \$10,000.00 in costs.

On pages 16-17 of the decision, Justice Nielsen also ordered that Tim pay \$10,000 as security for costs by September 6, 2024. If this amount is not paid by September 6, Tim's Statement of Defence will be struck, RBC will receive a judgment in their favour in the amount of \$21,015.54, plus post-judgment interest, and RBC will also be awarded \$5,000.00 in costs (payable by Tim).

Further, in the Unauthorized Representation Restriction Order, Justice Nielsen places significant limitations on Colton Kumar. Paragraph 3 specifically states that Colton is prohibited from having any further involvement in your matter, except for making submissions and entering Affidavit evidence in relation to penalty steps (ie. cost awards). What this means is that if you wish to have me assist with the Court of Appeal matter, Colton cannot be involved in the process in any way (other than paying my invoices). As an officer of the court, I am obligated to adhere to all procedural Orders from the Court.

I am not bringing all of this to your attention to scare you. I want to ensure that you and Tim are both clear on the potential impacts of these lawsuits (financial and otherwise). If possible, I would like to schedule a zoom call with you and Tim to discuss things. Could I trouble you to provide me with your availability and I will send you a zoom link.

I look forward to hearing back from you.

Warm Regards,

Heidi Semkowich, ARP, CLC

Registered Paralegal, Legal Coach



(780) 993-1390

www.hmsparalegalservices.ca

Heidi Semkowich

Heidi Semkowich

From: Heidi Semkowich <heidi@hmsparalegalservices.ca>
Sent: August 26, 2024 4:13 PM
To: 'Power Is In The People !'
Subject: RE: Tim Kohut - Appeal - URGENT

Sworn before me this 18 day of December
A.D., 2024.

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor

Hi Colton,

Thank you for sending along the contact info and photos of your driver's license.

I have spent a good portion of today making heads and tails of the Kohut matters. I have reviewed the materials that Tara sent to me, and this is not a simple situation. Restoring an appeal is not impossible, but it is challenging, and it is going to take a fair amount of coaching from me (to Tara & Tim) to try and get things moving forward. In light of the restoration aspect of the appeal, my initial ballpark of 500-600 is not accurate. Because of the restoration, we are essentially starting from the beginning, fees will be more in line with 1,000-1,200. As I mentioned at the top of the email, I have already spent a chunk of time reviewing materials (3.2 hours today).

I also want to chat with you about the procedural order that Justice Nielsen gave, which was filed on August 20, 2024. That Order prohibits you from being involved in the Kohut matters. Are you aware of this Order?

I look forward to hearing back from you.

Warm Regards,

Heidi Semkowich, ARP, CLC
Registered Paralegal, Legal Coach



(780) 993-1390
www.hmsparalegalservices.ca

From: Power Is In The People ! <unitedwestandpeople@gmail.com>
Sent: Monday, August 26, 2024 12:03 PM
To: Heidi Semkowich <heidi@hmsparalegalservices.ca>
Subject: Re: Tim Kohut - Appeal - URGENT

Heidi Semkovich

Sworn before me this 18 day of December
A.D., 2024.

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor

Aug. 28/24
10:08 am - 10:27 am

Kohut

Call w Colton

- Discussed the Nielsen decisions
 - advised that I would have no interactions w Colton (would not discuss anything other than invoice)
 - Nielsen order prohibits him from being involved.

Colton confirmed he was aware of the Orders & that he would be appealing them.

- I reinforced that Tim & Tara were clients & I would not be discussing matter w him.

Colton told me to look up s. 22.3 or 23.2 in the Debt Collection & Repayment legislation to read the clause that allows him to ask for confirmation that debt is owned by the creditor.



Our File #: 2024-0035 HMS

This is Exhibit "J" referred to in the Affidavit of

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024.

Gregory L. Genest
Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Barrister and Solicitor

Via Email: tim.kohut@outlook.com
intrinsicillumination@gmail.com

August 29, 2024

Tim Kohut & Tara Holberton
1938 Bonneville Drive
Sherwood Park, AB T8A 0Y2
Tele: (780) 224-1256

Dear Tim & Tara:

Re: Retainer Agreement-Paralegal Services
Between: Tim Kohut & Tara Holberton and-HMS Paralegal Services

Thank you for choosing HMS Paralegal Services to assist you through your matter. This Agreement serves to clarify the expectations of you, "the Client", and myself, of HMS Paralegal Services. Prior to the commencement of any services, a completed and signed copy of this letter must be received by HMS Paralegal Services, in person or via email, whichever is more suitable to both parties.

ACKNOWLEDGEMENT

The Client is expressly aware that staff at HMS Paralegal Services are not lawyers, and they provide **non-lawyer** legal support to parties focused on resolution and effective solutions to their matter. **Legal advice cannot and will not be provided by staff of HMS Paralegal Services.**

WAIVER

The employee of HMS Paralegal Services, named below, expressly disclaims any implied or expressed warranty in respect of services provided. In no event shall the service provider be liable for any damages whatsoever, including without limitation, damages for loss of profits, business interruption, loss of business or personal information, or other pecuniary loss, or general or special damages for shock, trauma or stress or other cause arising from the use, inability to use documentation or outcome of your legal matter. HMS Paralegal Services will correct and edit any errors made by them that render the documents not fileable. No extra charge is applicable for correcting errors made by staff of HMS Paralegal Services.

1064 Foxwood Crescent
Sherwood Park, AB T8A 4T0
Phone: (825) 886-1390
Email: heidi@hmsparalegalservices.ca
www.hmsparalegalservices.ca

STORAGE OF CLIENT FILES/INFORMATION

HMS Paralegal Services uses cloud-based servers to store client files and/or information. By signing this retainer agreement, the client consents to the storage of information pertaining to their matter on cloud-based servers.

COMMUNICATION

HMS Paralegal Services will routinely communicate with the client about their matter via telephone, zoom meetings and email. By signing this retainer agreement, the client expressly consents to communication via telephone, zoom meetings and email.

RETAINER

Services Retained

The Client hereby retains the services of HMS Paralegal Services to provide paralegal services with respect to review of appeal documents, and guidance on Court of Appeal of Alberta processes and procedures.

Based on the Client's representations noted above and contingent on there being no further developments the Client's fees shall be paid by Colton Kumar. Any drafting of legal documents, if required, will be charged at the same rate. The client shall be charged for time spent:

- Reviewing and drafting email correspondence;
- Virtual and/or Telephone Meetings with client;
- Research, if necessary;
- Document drafting, formatting, and/or review; and
- Any other services required over the duration of this matter.

Receipt of this fully executed Retainer Agreement will mark the commencing of the parties' professional engagement.

Due to recent decisions from the Court of King's Bench of Alberta, Colton Kumar will not provide instructions or directions in this matter. He will be sent invoices, but all material matters will only be discussed with Tim Kohut and/or Tara Holberton.

DISBURSEMENTS

You will be responsible for disbursements incurred on your behalf. Any disbursements incurred will be included on your invoice, and a copy of the disbursement receipt will be provided to you.

INTEREST

Payment is due on all of our accounts when rendered. If any account is not paid within 30 days, interest will be charged on the outstanding balance at a rate of 20% per annum (compounded monthly), from the date the account is rendered until the account is paid.

TERMINATION OF PROFESSIONAL RELATIONSHIP

The Client has the right to terminate the professional relationship between themselves and HMS Paralegal Services upon written notice of the same received by HMS Paralegal Services.

Subject to our obligations to you to maintain professional standards of conduct, we reserve the right to terminate our services to you for good reasons, which include, but are not limited to:

- The Client’s failure to cooperate with reasonable requests;
- If our continuing to assist would be unethical or impractical;
- If our retainer has not been paid; or
- If you fail to pay any outstanding balance when due.

In the event the professional relationship between the Client and HMS Paralegal Services is terminated, the Client will be billed for time and services provided to date and refunded any balance of funds held by HMS Paralegal Services.


Method of Payment

Fees are payable by e-transfer. The Client may e-transfer the fees payable to heidi@hmsparalegalservices.ca.

Thank you for engaging the services of HMS Paralegal Services. We look forward to assisting you.

Yours truly,

HMS PARALEGAL SERVICES

Per: 
Heidi Semkowich
AB Registered Paralegal, Certified Legal Coach

E&OE

We, Tim Kohut & Tara Holberton, hereby agree to the terms set out herein and engage the services of HMS Paralegal Services to provide the within noted services for the fees set out herein.

Per: _____

Date: _____

- Outlook

Re: HMS - August Invoice

From Novel Bookkeeping <admin@novelbookkeeping.ca>
Date Tue 9/3/2024 8:56 AM
To tim.kohut@outlook.com <tim.kohut@outlook.com>
Cc Heidi Semkowich <heidi@hmsparalegalservices.ca>

📎 1 attachment (180 KB)

2024-08-31 - HMS INV 2024-0088 (Kohut).pdf;

Oops! With Heidi cc'd :)

Catherine
Novel Bookkeeping
780-709-3137

On Tue, Sep 3, 2024 at 8:54 AM Novel Bookkeeping <admin@novelbookkeeping.ca> wrote:

****Please contact Heidi directly if you have any questions regarding this invoice****

Tim -

Attached, please find your invoice for paralegal services during August 2024. Payment is due upon receipt and can be made via e-transfer to: heidi@hmsparalegalservices.ca.

Regards,

Catherine Wenschlag (she/her)
Bookkeeper for HMS Paralegal
Novel Bookkeeping
780-709-3137

This is Exhibit "K" referred to in the Affidavit of

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024.


Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor



HMS Paralegal Services

1064 Foxwood Crescent
Sherwood Park AB T8A4T9
780-993-1390
heidi@hmsparalegalservices.ca
GST Registration No.: 781127618RT0001

INVOICE

BILL TO
Tim Kohut
c/o 3705 - 40 Avenue
Vernon BC V1T 7E5

INVOICE 2024-0088
DATE 09/02/2024
TERMS Due on receipt
DUE DATE 10/01/2024

FILE NUMBER
2024-0035 HMS

DATE	DESCRIPTION	QTY	RATE	AMOUNT	TAX
08/22/2024	Telephone call with C. Kumar; Telephone call from T. Holberton	0:12	125.00	25.00	G
08/26/2024	Review documents received from T. Holberton; Emails to/from T. Holberton & C. Kumar	3:12	125.00	400.00	G
08/29/2024	Meeting with Tim & Tara; Email to clients	0:30	125.00	62.50	G
				SUBTOTAL	487.50
				GST @ 5%	24.38
				TOTAL	511.88
				BALANCE DUE	\$511.88

Payment can be made via e-transfer to heidi@hmsparalegalservices.ca

Heidi Semkovich

HMS - August Invoice

Sworn before me this 18 day of December
A.D., 2024.

From Heidi Semkovich <heidi@hmsparalegalservices.ca>
Date Mon 9/16/2024 11:28 AM
To 'Power Is In The People !' <unitedwestandpeople@gmail.com>

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Ernest
Barrister and Solicitor

📎 1 attachment (180 KB)
2024-08-31 - HMS INV 2024-0088 (Kohut).pdf;

Hi Colton,

I am not sure if Tim Kohut forwarded this to you so I thought I would send it as well.

Payment can be sent to me via e-transfer.

Warm Regards,

Heidi Semkovich, ARP, CLC
Registered Paralegal, Legal Coach



(780) 993-1390
www.hmsparalegalservices.ca

--

INTERAC e-Transfer: A money transfer from 1304139 BC LTD has been automatically deposited.

From 1304139 BC LTD <notify@payments.interac.ca>
Date Mon 9/16/2024 12:01 PM
To HMS PARALEGAL SERVICES INC. <heidi@hmsparalegalservices.ca>

This is Exhibit "M" referred to in the Affidavit of

Heidi Semkowich

Sworn before me this 18 day of December
A.D., 2024.

Gregory L. Genest

Notary Public, Commissioner for Oaths in and
For the Province of Alberta

Gregory L. Genest
Barrister and Solicitor



[View in browser](#)

[Français](#)

Hi HMS PARALEGAL SERVICES INC.,

1304139 BC LTD has sent you \$511.88 (CAD) and the money has been automatically deposited into your bank account at RBC Royal Bank.

Reference Number: C1AYVmq7JdsQ

Please do not reply to this email.

[FAQs](#) | This is a secure transaction



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® Trade-marks of Interac Corp.



Email or text messages carry the notice while the financial institutions securely transfer the money using existing payment networks. For the answers to common questions please visit our FAQs.

This email was sent to you by Interac Corp., the owner of the *Interac e-Transfer*® service, on behalf of 1304139 BC LTD at Scotiabank.

Interac Corp.
P.O. Box 45, Toronto, Ontario M5J 2J1
www.interac.ca