



**FORM 33
(RULE 8-1 (10))**

No. 58772
Vernon Registry

In the Supreme Court of British Columbia

Between

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

Plaintiff

and

John McDonald, Heidi Semkowich & Mcdonald Paralegal Services LTD

Defendant

APPLICATION RESPONSE

Application response of: Colton Kevin Kumar, 1304139 B.C. LTD. and Kevin Anthony Kumar, (the "application respondent(s)").

THIS IS A RESPONSE TO the notice of application of John Mcdonald, Heidi Semkowich and Mcdonald Paralegal Services LTD filed .

The application respondent(s) estimate(s) that the application will take 1 hour.

Part 1: ORDERS CONSENTED TO

The application respondent(s) consent(s) to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms:

1. None.

Part 2: ORDERS OPPOSED

The application respondent(s) oppose(s) the granting of the orders set out in paragraphs 1 through 7 of Part 1 of the notice of application. of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The application respondent(s) take(s) no position on the granting of the orders set out in paragraphs None. of Part 1 of the notice of application.

Part 4: FACTUAL BASIS

1. The Plaintiff rejects the Defendants' claim that the Supreme Court of British Columbia lacks jurisdiction. The Plaintiff asserts that there is both territorial competence and a real and substantial connection to British Columbia.
2. The harm caused by the Defendants' alleged conduct, including defamatory statements and interference with contractual relations, occurred in British Columbia. The defamatory content published on the Defendants' website was accessed in British Columbia, and the financial harm to the Plaintiff's business was suffered in British Columbia.
3. The Plaintiff company, 1304139 B.C. LTD., is incorporated and operates in British Columbia. Both Colton Kumar and Kevin Kumar reside in British Columbia, further grounding jurisdiction under the CJPTA.
4. Defamation, as a tort with significant effects in British Columbia, satisfies CJPTA s.10(1) (c). The tortious acts committed by the Defendants have substantial impact in this province.
5. The Defendants' claim that Alberta is the more appropriate forum lacks merit. Key witnesses, including representatives of the Plaintiff, reside in British Columbia, and evidence central to the claims is located in this jurisdiction. John's slanderous statements were posted on the Internet and are creating damages not only in British Columbia but all across Canada.
6. British Columbia law governs the claims for defamation and interference with contracts, as the harm occurred in this jurisdiction, making this the appropriate forum.
7. The Defendants published defamatory statements labeling the Plaintiffs as 'known fraudsters' implying a previous conviction of fraud and attributing involvement in an 'OPCA scam,' statements which were made maliciously and recklessly without factual basis.
8. The Defendants accepted payment from the Plaintiff company for legal services, breaching professional obligations by later acting directly against the Plaintiff's interests.
9. The Defendants' defamatory statements have caused irreparable harm to the Plaintiff's reputation and credibility within the lending industry, leading to lost business opportunities.

Part 5: **LEGAL BASIS**

2. 1. The Court Jurisdiction and Proceedings Transfer Act (CJPTA) s.3 and s.10 grant territorial competence to this Court, given the real and substantial connection to British Columbia. The tortious acts, including defamation and contractual interference, were committed in this jurisdiction.
2. Defamation law in British Columbia establishes that accusations of criminal conduct, such as fraud, are defamatory per se. The Defendants' statements labeling the Plaintiffs as 'known fraudsters' meet this criterion, causing significant reputational harm without basis. John needs to prove either of the plaintiffs have ever been convicted of fraud in a criminal court to substantiate his statements as factual and not slanderous.
3. Under the Code of Professional Conduct for British Columbia, Rule 3.4-1 prohibits conflicts of interest. The Defendants breached this rule by accepting payment for legal services from the Plaintiff and subsequently acting against their interests.
4. Rule 3.3-1 of the Code of Professional Conduct mandates that client information must be held in strict confidence and not used to the client's detriment. The Defendants' actions contravened this obligation by utilizing confidential information to harm the Plaintiff.
5. The Defendants' reliance on absolute privilege is unfounded, as the defamatory statements were not made as part of judicial proceedings but were instead published publicly on the Internet and other social media platforms accessible all across Canada.
6. The Defendants' invocation of the Protection of Public Participation Act (anti-SLAPP legislation) is inappropriate, as the statements in question do not concern matters of public interest. The Plaintiffs' right to seek redress outweighs any alleged free expression rights.
7. The Defendants interfered with contractual relations by inducing borrowers, including Terry Kerslake and Tim Kohut, to default on their obligations to the Plaintiff. This interference was compounded by defamatory statements, as evidenced by the default of another client, Mark Kilfoy and others located in British Columbia who viewed the slanderous publications in British Columbia and referenced these defamatory publications.
8. The Defendants' arguments that the Plaintiffs' claims are frivolous or vexatious are unfounded. The Plaintiffs have provided a substantial and evidence-backed case, demonstrating economic harm and reputational damage resulting from the Defendants' conduct.

Part 6: **MATERIALS TO BE RELIED ON**

1. Affidavit #1 of Colton Kumar, made 30/Dec/2024.
2. Exhibit A: Screenshots of defamatory statements made by John McDonald

The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

Date: Jun 8th 2025



Signature of application respondent
 lawyer for application respondent(s)
