



FORM 2
(RULE 3-3 (1))

No. 58772
Vernon Registry

In the Supreme Court of British Columbia

Between

COLTON KEVIN KUMAR,
1304139 B.C. LTD., and
KEVIN ANTHONY KUMAR

Plaintiffs

and

JOHN McDONALD,
HEIDI SEMKOWICH, and
McDONALD PARALEGAL SERVICES LTD.

RESPONSE TO CIVIL CLAIM

Filed by: JOHN McDONALD, HEIDI SEMKOWICH, and McDONALD PARALEGAL SERVICES LTD.

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendants’ Response to Facts

1. Except where expressly admitted, the Defendant’s deny each and every allegation laid out in the Civil Claim, and put the Plaintiffs to the strictest proof thereof.

Division 2- Defendants’ Version of Facts

The Parties:

1. The Defendant, John McDonald, is an individual ordinarily resident in the Province of Alberta.
2. The Defendant, Heidi Semkowich, is an individual ordinarily resident in the Province of Alberta.
3. The Defendant McDonald Paralegal Services Ltd., is a body corporate, duly incorporate pursuant to the *Business Corporations Act* RSA 2000.
4. The Plaintiff, Colton Kevin Kumar, is an individual who resides in Vernon British Columbia and Calgary Alberta. Colton Kevin Kumar has been declared a vexatious litigant by the Alberta Court of King’s Bench and is subject to Access Restrictions in that Court.
5. The Plaintiff 1304139 B.C. Ltd., is a body corporate, duly incorporated in the Province of British Columbia.
6. The Plaintiff, Kevin Anthony Kumar, is an individual, who as far as is known to the Defendants, is ordinarily resident in the Province of British Columbia. Kevin Anthony Kumar has been declared a vexatious litigant by the Alberta Court of King’s Bench and is subject to Access Restrictions in that Court. Kevin Anthony Kumar is sometimes known as Ty Griffiths, Ty Griffiths is subject to a universal Access Restriction in each of the Alberta Court of Justice, Alberta Court of King’s Bench and Alberta Court of Appeal.

Jurisdiction:

7. The Defendants state, and the fact is, there is no real and substantial connection to the Province of British Columbia.
8. The Defendants are residents of, and, conduct business in the Province of Alberta.

9. The Alleged Torts for which the Plaintiffs complain, occurred exclusively in the Province of Alberta.

Forums non Conveniens

10. The Defendant's reside in and conduct business in the Province of Alberta.
11. All of the witnesses are resident in the Province of Alberta.
12. There is a real risk on conflicting judgments with respect to the matters complained which are before the Alberta Court of Justice, and this Action which is before the British Columbia Supreme Court.

Vexatious Litigants/Abuse of Process:

13. The Plaintiffs Colton Kevin Kumar, and Kevin Anthony Kumar are subject to access restrictions in the Alberta Court of King's Bench.
14. The Defendants state, and the fact is, by bringing this action in the Province of British Columbia the Plaintiffs seek to circumvent the Orders of that Court.
15. Unnumbered paragraph two includes language "requiring the borrowers to seek proof of ownership of the debt" such activities have been deemed an Organized Pseudolegal Commercial Argument by the Alberta Court of King's Bench.
16. The matters of which the Plaintiffs complain in paras 3.2, 3.3, and 3.4 of the Civil Claim are matters before the Alberta Court of Justice and are a collateral attack on that Courts Processes and represent a shameless abuse of process.

General:

17. In complete response to the claim, the Defendants state, and the fact is the entire claim is a collateral attack on the processes of the Alberta Court of Justice and an attempt to circumvent the Access Restrictions Ordered by the Alberta Court of King's Bench.

Part 2: RESPONSE TO RELIEF SOUGHT:

1. The Defendants oppose the granting of the relief sought in part 2. of the Claim.
2. The Defendants pray the Action be stayed or struck as an abuse of process.

Part 3: LEGAL BASIS

1. Duplicity of Actions – It is settled law that the Court will do all things to attempt to avoid a duplicity of proceedings, and to avoid conflicting decisions in different courts, and the fair and efficient working of the Canadian legal system as a whole. Duplicative actions raise "the potential for much mischief, such as the risk of inconsistent decisions, waste of judicial resources, duplication of work by counsel and the possibility of 'forum shopping' by counsel.
2. Presumptive Jurisdiction/*Forum non conveniens*
 - a. *Court Jurisdiction and Proceedings Transfer Act* SBC 2003 c.28
 - i. A Court has territorial competence over a defendant only if
 1. That person is a plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim;
 2. During the Course of the proceeding that person submits to the Court's Jurisdiction
 3. There is an agreement between the parties with respect to jurisdiction
 4. That person is ordinarily resident in the Province of British Columbia at the time of the commencement of the proceeding, or
 5. There is a real and substantial connection between British Columbia and the facts on which the proceeding against the person is based.
 - b. Real and Substantial Connection, *Club Resorts v Van Breda* 2012 SCC 17
 - i. The Supreme Court laid out the following presumptive connecting factors that *prima facie* entitle a court to assume jurisdiction over a dispute.

1. The Defendant is domiciled or resident in the province;
2. The defendant carries on business in the province;
3. The tort was committed in the province; and
4. A contract connected with the dispute was made in the province.

3. Abuse of Process/Rule 9-5 of the *Supreme Court Rules*:

- a. The Legal Doctrine of Abuse of Process has been applied where allowing a claim to proceed would violate “such principles as judicial economy, consistency, finality, and the integrity of the administration of justice”
 - b. Abuse of Process is a flexible doctrine which includes “the inherent power of the court to prevent the misuse of its procedure, in a way that would ... bring the administration of justice into disrepute.
 - c. Abuse of Process extends to circumstances where “the process of the court is not being fairly or honestly used, or is employed for some ulterior or improper purpose”.
4. On the whole. The Plaintiffs are notoriously vexatious litigants in the Courts of Alberta, Kevin Kumar in his alter ego Ty Griffiths is subject to a universal court access ban including all of the Court of the Province of Alberta as ordered by Mr. Justice LoVecchio in 2012. Kevin Kumar, and Colton Kumar are subject to access restrictions in the Alberta Court of King’s Bench as ordered by the Honourable Associate Chief Justice Nielsen in 2024. The claim is a shameless attempt to circumvent the Orders of the Alberta Court of King’s Bench and a form of forum shopping to avoid the consequences of their previous activity.

Defendants Address for Service: 7203 – 25th Street SE, Calgary Alberta, T2C 0Z9

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Date: December 18, 2024



John C.W. McDonald, CD, ARP
For himself, and
McDonald Paralegal Services Ltd.



Heidi Semkovich
For herself