CV19000790740000

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Deirdre Moore *plaintiff*

and

Victor Vallance Blais LLP *defendant*

Courts of Justice Act

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Dated this ___ day of JAN 2 4 2019 20___
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STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $7,901.50 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $400 for costs and have the costs assessed by the court.

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TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date JAN 2 4 2019 ....

Issued by ....
Local registrar

Address of Court Office
161 Elgin Street, Ottawa, ON K2P 2K1
ONTARIO SUPERIOR COURT OF JUSTICE

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TO *Victor Vallance Blais LLP, 112 Lisgar Street, Ottawa, Ontario, K2P 0C2*

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CLAIM

1. The plaintiff (who is the Mother and Respondent in Family Court proceeding FC-15-2446-0) claims:

- Compensatory damages in the amount of $25,821.69 for legal fees paid by the plaintiff to the defendant between November 2015 and April 2016 due to the defendant's acts of recklessness, negligence, professional misconduct and/or breach of fiduciary duty.
- Compensatory damages in the amount of $5,134.00 for legal fees paid by the plaintiff to the defendant between November 2016 and February 2017 due to the defendant's acts of recklessness, negligence, professional misconduct and/or breach of fiduciary duty.
- Compensatory damages in the amount of $25,000 due to the psychological counselling and psychiatric medication required during 2017, 2018 and 2019 to date.
- Pecuniary damages in the amount of $300,000 due to the anticipated psychological counselling and psychiatric medication to be required by the plaintiff until age 80.
- Pecuniary damages in the amount of $300,000 due to the anticipated psychological counselling required by the plaintiff's two children, Sean and Cate Kiska, until they reach the age of 21.
- General damages in the amount of $250,000 for the income lost due to the need to self-represent.

- Aggravated damages in the amount of $250,000 due to the emotional suffering experienced by the plaintiff and her children following the return and subsequent departure of the plaintiff to/from the matrimonial home.
- Aggravated damages in the amount of $250,000 due to the humiliation amongst friends, family and professional colleagues experienced by the plaintiff following the return and subsequent departure of the plaintiff to/from the matrimonial home.
- Aggravated damages in the amount of $1,000,000 due to the negligent infliction of emotional suffering experienced by the plaintiff and her children throughout 2017 and onward following the defendant's acts of recklessness, negligence, professional misconduct and/or breach of fiduciary duty; including, but not limited to, advice to sign a shared parenting agreement that lacked any reference to or requirement of interim spousal or child support from Jonathan Kiska ("Kiska").
- Pecuniary damages in the amount of $1,000,000 due to the defendant's acts of recklessness, negligence, professional misconduct and/or breach of fiduciary duty during its period of representation of the plaintiff—who was and remains a victim of domestic violence as defined in Bill C-78.

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Background

2. The plaintiff experienced several nervous breakdowns between February 2013 and October 2015—all due to the verbal, emotional and psychological abuse from Kiska towards the plaintiff *and* the plaintiff's (then) five- to eight-year old daughter, Cate. (Her (then) six- to nine-year old son, Sean, remained (on the surface) relatively unharmed.)
3. It is important to note that events such as nervous breakdowns are now referred to as "mental illnesses" such as Acute Adjustment Disorder and Brief Psychotic Disorder in the Diagnostic Statistical Manual (DSM).
4. During the plaintiff's nervous breakdowns of 2013 and 2014, to cover his tracks, Kiska provided The Ottawa Hospital ("TOH") emergency room ("ER") psychiatrists and staff with false "collateral information" upon which they heavily relied in order to reach a diagnosis and treatment plan for Bi-polar disorder—a disease which the plaintiff did not (and does not) have.
5. The plaintiff endured three lengthy periods of hospitalization for reasons noted in paragraphs 2 and 4 above as Kiska consistently provided false "collateral information" upon which physicians continued to base their diagnoses and treatment plans.
6. On September 25, 2015, the plaintiff discovered proof that Kiska had lied to physicians at TOH regarding the cause/nature of her "mental illness".
7. The following day, the plaintiff separated from Kiska.
8. On October 1, 2015 the plaintiff informed Kiska that she had grounds for divorce for cruelty.
9. Over the following week, the plaintiff began to experience symptoms of another nervous breakdown.

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10. On October 12, 2015, she brought herself to TOH for care.

11. On November 10, 2015, while a voluntary patient at the TOH, the plaintiff was served with a Form 8: Application and a Form 14A: Notice of Motion with which Kiska sought, among other things, sole custody of their two children.

12. The notice of Motion sought urgent sole custody of the plaintiff's two children Sean Kiska (aged 10) and Cate Kiska (aged 8) due to the plaintiff's alleged mental illness and the alleged danger that she posed to their children.

13. The plaintiff was desperately in need of quality representation in order to protect the safety and best interests of her children—which required protection of the safety and best interest of herself.

Plaintiff retains the defendant

14. Shortly thereafter, the plaintiff retained the defendant and described, among other things, the degree of wickedness and number of false statements contained within Kiska's Application and Motion materials.

15. The Notice of Motion requested, among other things, that:

    a. the Motion be allowed to proceed on an urgent basis

    b. [Kiska] be granted interim sole custody of the children

    c. access between the children and the [plaintiff] be supervised by [Kiska]

    d. [Kiska] have interim, exclusive possession of the matrimonial home

    e. the order be police enforceable

16. The Application and the Notice of Motion alleged that the plaintiff posed a risk to the safety of their children.

17. The Notice of Motion stated that the Motion would be heard on November 17, 2015 (one week after service).

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18. However, the Motion was neither filed nor pursued.

19. During the initial meeting, the plaintiff explained to the defendant that the allegations made by Kiska were false.

20. Shortly thereafter, the plaintiff was asked by the defendant to provide proof of five false statements made by Kiska in his sworn Affidavits, which she readily provided.

21. The plaintiff also brought to the defendant the article on "Gaslighting" that she had found in the matrimonial home.

22. Despite the circumstances of the plaintiff's situation, it seemed that the defendant was content to follow a standard course of action devoid of any acknowledgement of the emotional and psychological abuse that had occurred.

23. The defendant *did not have* or, in the alternative, *did not follow* any process by which to represent (let alone defend and/or protect) a victim of domestic violence.

24. Between December 2015 and April 2016, a copy of the plaintiff's Children's Aid Society ("CAS") file was delivered to the defendant; however, the defendant did not discuss any aspects of the CAS file with the plaintiff.

25. Regardless—unaware of legal process and dependent on the advice of the defendant—on January 14, 2016, the plaintiff signed the Answer that was presented to her.

26. In retrospect, with knowledge that the plaintiff has acquired since release of the defendant, the Answer was, at a minimum, devoid of material facts that would have better protected the safety and the best interests of her children.

27. Arguably, the Answer supported Kiska's Application.

28. In fact, Kiska did not serve a Reply.

29. Furthermore:

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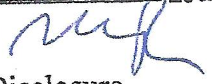

a. At no time did the defendant request from Kiska full Document Disclosure.

b. At no time did the defendant serve on Kiska a Form 22 (Request to Admit).

30. Possession of documents and admissions from paragraph 29 above, along with the plaintiff's medical files, would have been enough to bring into question the validity of Kiska's Application.

31. At the time, unbeknownst to the plaintiff, the defendant also had possession of a key document in the CAS files that it did not reveal.

32. Throughout December 2015 to April 2016, Kiska continued to actively demonstrate emotional and financial abuse via legal proceedings.

33. However, at no time did the defendant make any effort to amend the plaintiff's Answer.

34. Furthermore, despite the evidence that was mounting, at no time did the defendant discuss the role of the Office of the Children's Lawyer ("OCL") with the plaintiff.

35. In addition:

   a. At no time did the defendant discuss with the plaintiff any need for Interim Financial Support (even though all legal fees were being paid with a credit card).

   b. At no time did the defendant discuss with the plaintiff the possibility of forcing a sale of the matrimonial home.

   c. At no time did the defendant discuss with the plaintiff the possibility of receiving occupational rent from Kiska.

36. From the onset, the defendant persuaded the plaintiff to choose mediation over litigation in order to reduce costs.

37. Within six weeks, however, the plaintiff paid to the defendant over $10,000 in legal fees.

38. Despite ongoing conflict, the defendant continued to endorse mediation.

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39. The defendant's acts of recklessness, negligence, professional misconduct and/or breach of fiduciary duty continued into February 2016 when the Case Conference resulted in little more than a warning to the plaintiff by the Court that she "[had better get a job and a home in the children's school zone if she wanted to have shared parenting rights]".

40. The plaintiff submits that the defendant's preparation for and performance during the Case Conference strengthened Kiska's position.

41. During March 2016, the plaintiff accepted a junior position with an investment firm and purchased 7 Vanson Avenue in the children's school zone.

42. By April 2016, however, the plaintiff's legal bills exceeded $25,000 and, unable to continue to finance the separation process, the plaintiff returned to the matrimonial home.

The plaintiff's third and final separation from Kiska

43. By November 2016, emotional and psychological abuse at the plaintiff's matrimonial home escalated to the point where she felt that she had no choice but to re-initiate the separation process and—better prepared financially—the plaintiff informed the defendant of same.

44. The plaintiff intended to notify Kiska on November 28, 2016.

45. Interestingly, Kiska texted a message to the plaintiff regarding separation on November 27, 2016.

46. At the time still unaware of the legal options identified in paragraphs 29, 30, 33-35 and the material fact noted at paragraph 31, the plaintiff once again relied upon the defendant for advice.

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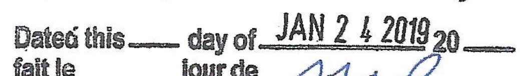

47. Noteworthy is the fact that during the first week of December 2016, the defendant advised the plaintiff to both rent another place to live as well as stay in the matrimonial home.
48. The plaintiff chose to rent a condo.
49. On December 13, 2016, the plaintiff attended a mediation session with the defendant where an Interim Parenting Agreement was signed.
50. The agreement detailed interim shared custody and access arrangements.
51. It did not include any reference to spousal or child support; however, it did detail a dividend—one that the plaintiff did not realize would affect support calculations.
52. At no time did the defendant discuss the option of interim spousal and/or child support.
53. By January 2017, the defendant had knowledge that the plaintiff was unemployed.
54. At no time did the defendant discuss the possibility of forcing a sale of the plaintiff's matrimonial home.
55. At no time did the defendant discuss the ability to pursue the receipt of occupational rent to the plaintiff.
56. The lack of meaningful interim financial support has caused significant hardship as well as jeopardized the well-being of the plaintiff's two children.
57. The plaintiff's current financial distress in order to provide for her children could have been avoided with sound advice from the defendant.
58. Furthermore, the plaintiff's endeavours to bring a civil action against Kiska could have been avoided.
59. During December 2016, the plaintiff initiated a civil action for defamation against Kiska with law firm Low Murchison Radnoff.

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60. The defendant had knowledge of this action and the reasons behind it; however, at no time did the defendant inform the plaintiff that such a claim could be made in Family Court via the *Courts of Justice Act*.

61. The plaintiff's retention of, and costs associated with, a separate law firm was completely unnecessary as an amended Answer could have sought damages for both Defamation and Criminal Defamation.

62. Despite knowledge of the plaintiff's pursuit of a civil action, knowledge of Kiska's abusive history and knowledge of the plaintiff's request for litigation, the defendant continued to endorse mediation.

63. The plaintiff began to question the motivations of the defendant.

64. Cognizant of the $25,000+ that she had already paid to the defendant for "advice" during 2015/16, the plaintiff terminated the retainer agreement with the defendant on January 27, 2017.

65. On February 1, 2017, the Notice of Change in Representation form was completed.

Following the release of the defendant

66. Upon release of the defendant, the plaintiff was given her legal file which included a key piece of documentation: evidence in the CAS file that supported the plaintiff's allegations that Kiska is an abusive man.

67. With this in hand, the plaintiff knew that she had a key piece of evidence that could be used to invalidate Kiska's Application.

68. The plaintiff initiated the process of amending her Answer as it lacked meaningful content such as references to important information contained in the CAS, Ottawa Police Services and TOH files.

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69. The Answer was also devoid of requests for orders regarding damages which a victim of domestic violence is entitled to seek.

70. After months of naïve effort to receive consent from Bell Baker LLP to amend her Answer, the plaintiff brought a Motion.

71. The plaintiff prepared and presented her own Affidavits, Reply and Factum.

72. In August 2017, the Motion to amend the plaintiff's Answer was heard by the Court.

73. After three months without word of a decision, the plaintiff was confident that leave would be granted and informed the defendant that she should receive a refund of all legal fees paid to the defendant for "advice".

74. Despite paragraphs 63-65, the defendant expressed both surprise at and rejection of the plaintiff's request.

75. In November 2017, the Court granted leave for the plaintiff to amend her Answer to include 14 new orders:

- An order for the awarding of compensation for general, aggravated and punitive damages due to the intentional infliction of mental suffering and emotional distress.
- An order for the awarding of compensation due to attempted parental alienation.
- An order for the awarding of compensation due to the tort of defamation.
- An order for the awarding of compensation due to the tort of breach of fiduciary responsibility.
- An order for the awarding of compensation for general, aggravated and punitive damages due to the negligent infliction of mental suffering and emotional distress.

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- An order for pecuniary damages related to the criminal act of Defamatory Libel.
- An order for pecuniary damages related to the criminal act of Criminal Harassment.
- An order for pecuniary damages related to the criminal act of Mischief.
- An order for retroactive spousal and child support under the Divorce Act.
- An order for constructive trusts and/or vesting orders for cost recovery and/or damages awards.
- An order that the Applicant not come within 500 metres of the Respondent's home or harass Respondent by way of phone, text, email or any other form of communication.
- An interim and permanent order that the children's special and extraordinary expenses be paid by the Applicant.
- An interim and permanent order requiring the Applicant to purchase a paid-up policy of life insurance in an amount sufficient to secure his child and spousal support obligations and that he designate the Respondent as irrevocable beneficiary thereof in trust for the children;
- An order that this order be police enforceable.

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76. Unfortunately, the Court denied leave for the plaintiff to alter the material facts of the original Answer because "It should not fall to Mr. Kiska to deconstruct *what is not properly constructed in the first instance* to determine if there are subtle differences in repetitive paragraphs that may require a different response."
77. The Court did, however, state that the plaintiff's Factum was "rife with evidence".
78. If the original Answer had been *properly constructed* then 2015 to 2019 (thus far) and onward would have been quite different for the plaintiff and her two young children.

79. During July 2018, the OCL recommended to the Court that "the [plaintiff] have sole custody of Sean and Cate Kiska"; however, at time of writing, the plaintiff remains bound to the terms of the Interim Shared Parenting agreement that was drafted by the defendant.

Other reprehensible conduct

80. Indicative of the defendant's "corporate culture", on January 31, 2018, in response to an e-mail thread that ended with the plaintiff writing "… and too busy with ugly divorce to read the rest of your e-mail"—the defendant replied with only a symbol:

81. On January 14, 2019, whilst preparing for the third Settlement Conference regarding separation from her recalcitrant ex-husband, the plaintiff discovered that the 2015 Case Conference Brief that was served by Bell Baker LLP on behalf of Jonathan Kiska was both unsigned by Kiska and dated **just two days** before the Case Conference.

82. On January 24, 2019, whilst preparing this statement of claim, the plaintiff realized that her own Case Conference Brief, prepared by the defendant, was also dated February 26, 2016—**just two days** before the Case Conference.

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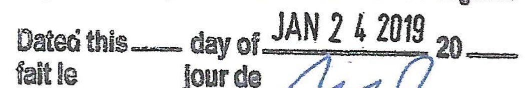

Deirdre Moore, 1466 Claymor Avenue, Ottawa, ON K2C 1S6

(613) 261-3520

JAN 2 4 2019

(Date of issue) *(Name, address and telephone number of lawyer or plaintiff)*

Courts of Justice Act

BACKSHEET

19-79074

DEIRDRE ANN MOORE

VICTOR VALLANCE BLAIS LLP

DEIRDRE MOORE vs. VICTOR VALLANCE BLAIS

ONTARIO

SUPERIOR COURT OF JUSTICE

COURT FILE NUMBER

PROCEEDING COMMENCED AT 161 ELGIN STREET,

OTTAWA, ONTARIO K2P 2K1

STATEMENT OF CLAIM

Deirdre Ann Moore, 1466 Claymor, Ottawa, Ontario, K2C 1S6

(613) 261-3520 deirdre.faff@gmail.com

Victor Vallance Blais LLP, defendant Fax # (613) 238-8949

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RCP-E 4C (May 1, 2016)