

Superior Court of Justice, Family Court

(Name of Court)

Court File Number

FC-15-2446-0**at 161 Elgin Street, Ottawa, Ontario K2P 2K1**

(Court office address)

**Form 14A: Affidavit (General)
dated July 13, 2017****Applicant(s)***Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).***Jonathan William Kiska
1244 Lampman Cr
Ottawa, Ontario
K2P P8***Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).***Wade L. Smith
Bell Baker LLP
Barristers and Solicitors
700-116 Lisgar Street
Ottawa, Ontario K2P 0C2
Tel: (613) 237-3444
Fax: (613) 237-1413 Box#35
wsmith@bellbaker.com****Respondent(s)***Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).***Deirdre Moore
7 Vanson Avenue
Ottawa, Ontario
K2E 7A9
Tel: 613-791-1451***Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).***deirdre@ccch.ca****My name is**

(Full legal name)

Wade L. Smith, Barrister and Solicitor**I live in**

(municipality and province)

Ottawa, Province of Ontario**and I swear/affirm that the following is true:***Set out the statements of fact in consecutively numbered paragraphs. Where possible, each numbered paragraph should consist of one complete sentence and be limited to a particular statement of fact. If you learned a fact from someone else, you must give that person's name and state that you believe that fact to be true.*

1. I am a partner at the law firm of Bell Baker LLP, the lawyers for the Applicant and as such have knowledge of the matters set out in this my Affidavit.
2. Initially the Respondent was represented by Tanya Pompilio, of the law firm Victor Ages Vallance LLP. Ms. Pompilio prepared a comprehensive Answer to our client's Application. The Respondent is now self-represented. Since then, she has sent us a series of Amended Answers and asked for me to consent to the amendments.
3. One of the Respondent's main complaints is that she feels that her diagnosed mental illness has been "caused" by the Applicant. This is denied by him.

dated July 13, 2017.

4. The Respondent has claimed damages based on the tort of the "intentional infliction of mental suffering". The Applicant strenuously denies the lengthy allegations pleaded in the Amended Answer.
5. We have repeatedly advised the Respondent that she should obtain legal counsel. We have also advised her that the claim for intentional infliction of mental suffering is not allowed in family law and, consequently, we cannot agree to consent to the amended pleading.
6. Attached as **Exhibit "A"** to this my Affidavit is a true copy of an email I sent to the Respondent providing her with a copy of the case of *Lo v. Lo*. A copy of the case is also attached.
7. I have also advised the Respondent that there are subsequent cases supporting the decision in *Lo v. Lo*.
8. Despite my providing the Respondent with this information, she has insisted on proceeding with a Motion in the Procedural Motions Court. I have repeatedly advised her that, even if the Amendment were to be allowed, the argument as to whether it should be is not the subject of a Procedural Motion, but requires a full Motion in the Court.
9. On July 7, 2017, the Respondent served a Notice of Motion returnable July 13, 2017. I immediately contacted her and advised that I am leaving on vacation and not available to have the Motion heard. Attached and marked as **Exhibit "B"** to this my Affidavit is a true copy of the email to the Respondent.
10. As indicated in my email, the Respondent did not canvass my availability in advance.
11. I have advised the Respondent that if the matter is proceeding on July 13, 2017, we will be requesting the legal costs of attending. I have given her an estimate of the costs, which are increased due to the fact that I have to prepare an Affidavit and arrange to have another lawyer at our firm bring himself up to speed and appear on this matter.
12. The Respondent has ample ability to pay legal costs. She is the owner of her own home and has a number of other assets. We are attempting to negotiate the equalization payment to be made from one party to the other
13. I make this Affidavit conscientiously believing it to be true and for no improper purpose.

Put a line through any blank space on this page.

dated July 13, 2017.

Sworn/Affirmed before me at:

Ottawa

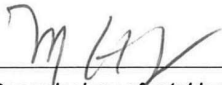
(municipality)

in Province of Ontario

(province, state or country)

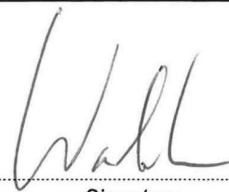
on July 13, 2017.

(date)



Commissioner for taking affidavits

(Type or print name below if signature illegible.)



Signature

(This form to be signed in front of a lawyer,
justice of the peace, notary public or commissioner
for taking affidavits.)

Wade Smith

From: Wade Smith
Sent: June-27-17 2:38 PM
To: Deirdre Moore (Deirdre@cceh.ca)
Cc: John Kiska (jonathankiska@gmail.com); Lauren Daneman
Subject: FW: WestlawNext Canada - Lo v. Lo
Attachments: Lo v Lo.rtf

Good afternoon Ms. Moore

One of the problems with your latest amended Answer is that you claim damages for the intentional infliction of mental suffering. This claim is not permitted in family law. I am attaching the leading case on this point.

Wade L. Smith
Bell Baker LLP
700-116 Lisgar Street
Ottawa, Ontario
K2P 0C2
613-237-3448 (324)

-----Original Message-----

From: nextcanada@westlaw.com [<mailto:nextcanada@westlaw.com>]

Sent: June-27-17 2:38 PM

To: Wade Smith

Subject: WestlawNext Canada - Lo v. Lo

Wade Smith sent you content from WestlawNext Canada.
Please see the attached file.

Item: Lo v. Lo
Citation: 2009 CarswellOnt 2979
Sent On: Tuesday, June 27, 2017
Sent By: Wade Smith
Client ID: UNITED

Note:

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