



Court File No./N° du dossier du greffe: CV-21-00664648-0000

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

Electronically issued
Délivré par voie électronique : 25-Jun-2021
Toronto

JONATHON SMITH

Plaintiff

v.

ANGELA MARTINEZ

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT(S)

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 \$2,000.00 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 \$400.00 for costs and have the costs assessed by the court.

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 Issued by
Local registrar

Superior Court of Justice
393 University Avenue, 10th Floor
Toronto ON M5G 1E6

TO:



The Parties

- 1. The Plaintiff, [Name]
- 2. The Defendant, [Name]

The Defendant

On April 15, 2021, the Defendant was served with the Plaintiff's Statement of Claim and the Defendant's Statement of Defence.

THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The Plaintiff claims:
 - a) General damages for defamation in the amount of \$175,000.00;
 - b) Punitive and exemplary damages, or either of them, in the amount of \$25,000.00;
 - c) A complete retraction of all defamatory statements and publications, as well as public apologies similarly associated with same;
 - d) An Order permanently restraining the Defendant from continuing to publish the false and defamatory accusations that are the subject matter of this action;
 - e) Pre-judgment interest and post-judgment interest pursuant to the Courts of Justice Act, R.S.O. 1990, c. C.43, as amended;
 - f) Costs of this action on a substantial indemnity basis; and
 - g) Such further and other relief as this Honourable Court deems just.

The Parties

2. The Plaintiff, Jonathon Smith, is a resident of Toronto, Ontario.
3. The Defendant, Angela Martinez, is a resident of Toronto, Ontario.

The Defamation

4. On April 18, 2021, Ms. Martinez posted text on Instagram with the hashtag @jonathons_. The post contained defamatory statements about the Plaintiff:

- a) "He moved himself to the opposite couch – my bed – and kept pressuring me to have sex. I kept saying "no, I don't want to, I can't even see now" so he proceeded to force me on my side, take my pants off, put it in, then afterwards move me on top of him."
 - b) "... because I had a crush on this predator."
 - c) "Jonathon Smith is a predator and a rapist."
 - d) "If you're aware of this information and continue to support/follow, you are just as bad the predator himself."
5. The clear message conveyed in the post by Ms. Martinez is that the Plaintiff forced her to have non-consensual intercourse. She described the Plaintiff as a "predator and rapist".
 6. The Plaintiff denies that he has ever had any non-consensual contact of a sexual nature with Ms. Martinez. The allegation that the sex was non-consensual and that he is a sexual "predator and a rapist" is false and highly defamatory of the Plaintiff.
 7. On April 18, 2021, Ms. Martinez also made a post on Instagram that tagged Counter Culture Agency, a Toronto-based marketing company with whom the Plaintiff had a business relationship. Upon seeing the post, which read "*@counterculture.agency This is his agency let these people know they got a predator on payroll*", Counter Culture Agency posted a thank you to Ms. Martinez and advised readers that "*We won't be working with Jonathon anymore.*"
 8. The defamatory comments posted by Ms. Martinez were posted by her with malice, knowing they were false, or with careless disregard as to whether they were true or not.
 9. Ms. Martinez intended the defamatory comments to be seen by a large number of individuals and to cause damage to his personal reputation among friends and

acquaintances and to his professional reputation among clients, potential clients and business associates.

Tel: 416-364-5200 ext. 226

Fax: 416-364-5202

Lawyers for the Plaintiff

Damages

10. The Plaintiff works as a freelance photographer, primarily in the fields of fashion, music and the arts. As such, his ability to attract clients and to work requires him to maintain a stellar professional reputation. He often works closely with female models and artists, and he has to be trusted to act professionally at all times. Any suggestion of sexual impropriety has a profound impact on his career prospects and income earning potential.
11. The Defendant's malicious conduct, which was deliberately calculated to expose the Plaintiff to contempt and scorn, has caused him personal embarrassment, humiliation and emotional distress and has seriously damaged his personal and professional reputations. Financially, Plaintiff has suffered loss of income and earning capacity.
12. The Plaintiff pleads that the defamatory statements must give rise to general damages and that punitive and exemplary damages are warranted to ensure that the Defendant is appropriately punished for her willful, contemptuous and contumelious conduct and deterred from such conduct in future.
13. The Plaintiff abandons his claim for damages in excess of a total of \$200,000.00, not including interest and costs, so as to bring the action within the simplified procedure as provided by the *Rules of Civil Procedure*.
14. The Plaintiff proposes that this action be tried at Toronto.

RV LAW LLP
Barristers & Solicitors
969 Eglinton Avenue West
Toronto, ON M6C 2C4

Marshall Reinhart

electronically issued / Délivré par voie électronique : 25-Jun-2021

Court File No./N° du dossier du greffe: CV-21-00664648-0000

LSO No. 25511J
Tel: 416-364-5200 ext. 226
Fax: 416-364-5282

Lawyers for the Plaintiff

Electronically issued / Délivré par voie électronique : 25-Jun-2021

Court File No./N° du dossier du greffe: CV-21-00664648-0000

Court File No.:

SMITH

- and -

MARTINEZ

Plaintiffs

Defendant

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at TORONTO

STATEMENT OF CLAIM

RV LAW LLP

Barristers & Solicitors
969 Eglinton Avenue West
Toronto, Ontario M6C 2C4

Marshall Reinhart (#25511J)

Tel: 416-364-5200
Fax: 416-364-5282
marshall@rvlaw.ca

Lawyers for the Plaintiff