

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**SVETLANA DANILOVA AND PAVEL DANILOV**

Plaintiffs

-and-

**ALLA NIKITYUK, VALENTIN NIKITYUK, YANA SKYBIN, YOUNG MENS CHRISTIAN  
ASSOCIATION operating as YMCA SIMCOE/MUSKOKA**

Defendants

**FRESH AS AMENDED STATEMENT OF CLAIM**

**TO THE DEFENDANTS:**

**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 plaintiffs' 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.

Date: December 15, 2015

Issued by: \_\_\_\_\_

**The Local Registrar**

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1. The plaintiffs claims are as follows:

- (a) damages in the amount of \$43,857.25;
- (b) future losses in the sum of \$105,193.40;
- (c) pre-judgment interest on all damages pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C. 43, as amended;
- (d) post-judgment interest on the above amounts pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C. 43 as amended;
- (e) costs of this action on a solicitor and client basis and her own costs; and
- (f) such further and other relief as this Honourable Court deems just.

2. In addition, the plaintiffs Pavel Danilov and Svetlana Danilova (the “plaintiffs”) claim against defendants Alla Nikityuk and Valentina Nikityuk damages in amount of \$200,000 as follows:

- a) \$200,000 for breach of contracts between plaintiffs and the defendants;
- b) \$200,000 for negligence, conspiracy and other torts;
- c) \$200,000 for defamation, libel and damage to the plaintiffs reputation;
- d) \$200,000 for breach of trust and fiduciary duty;
- e) \$200,000 for harassment and nuisance;
- f) other general, aggravated and punitive damages in amount of \$200,000;
- g) pre-judgment and post-judgment interest in accordance with the Ontario Courts of Justice Act;
- h) costs on substantial indemnity basis;

- i) other relief this Honourable Court may deem just and appropriate under the circumstances.

3. In addition, the plaintiffs claim against the defendants Young Mens' Christian Association and Yana Skybin damages in amount of \$1,200,000 as follows:

- a) \$200,000 for defamation, libel and distribution of defamatory statements to various third parties and organizations;
- b) \$200,000 for breach of contract, causing economic loss, negligence, fraudulent and negligent misrepresentation;
- c) \$200,000 for breach of contracts between plaintiffs and the defendants;
- d) \$200,000 for negligence, fraudulent and/or negligent misrepresentation, conspiracy;
- e) \$200,000 for defamation, libel and damage to the plaintiffs reputation;
- f) \$200,000 for other causes of action known in law and applied to the material facts
- g) other general, aggravated and punitive damages in amount of \$200,000;
- h) pre-judgment and post-judgment interest in accordance with the Ontario Courts of Justice Act;
- i) costs on substantial indemnity basis;
- j) other relief this Honourable Court may deem just and appropriate under the circumstances.

## The Parties

4. The Plaintiff, Svetlana Danilova (hereinafter "Svetlana") is a 49 year old woman who immigrated to Canada from Russia with her husband, Pavel Danilov, on July 7, 2003. At all material times, Svetlana has been the sponsor of the defendants Alla and Valentin Nikityuk, having brought them to Canada on a Family Class Sponsorship Agreement.
5. The Plaintiff, Pavel Danilov (hereinafter "Pavel") is a 48 year old man and the husband of Svetlana as well as the co-sponsor of Svetlana's parents.
6. The Defendant, Alla Nikityuk (hereinafter "Alla") is a 73 year old woman and the biological mother of Svetlana Danilova known as "the parents". At all material times, Alla has been residing in Canada with her husband, Valentin Nikityuk, under a Sponsorship Agreement whereby they were sponsored by Svetlana and Pavel.
7. The Defendant, Valentin Nikityuk (hereinafter "Valentin") known as "the parents" is a 75 year old man who is the legal husband of Alla and the step-father of his sponsor, Svetlana.
8. The Defendant, Yana Skybin (hereinafter "Yana") is a YMCA Settlement counselor dealing with newcomer settlement programs. She assists the patrons of YMCA with preparing documents, setting up appointments with government services, participation in Ontario festivals and other services designed to assist newcomers to Canada to settle in a new country. At all material times, Yana was an employee of YMCA Simcoe/Muskoka Newcomer Services.

9. The Defendant, YMCA Simcoe/Muskoka (hereinafter "YMCA") is the regional head office of YMCA corporation offering a variety of services designed to assist communities by providing affordable services for the whole family.
10. The Defendant, YMCA Simcoe/Muskoka Newcomer Services (hereinafter "YMCA NS") is a division within YMCA Simcoe/Muskoka intended to help Newcomers to Canada be able to integrate into Canadian culture and society by helping them to learn English or French as well as helping them to find housing and employment, and by offering other services. The Newcomer Services programs offered by YMCA are fully funded by the Citizenship and Immigration Ministry of the Federal government.

#### **BREACH OF CONTRACT, DEFAMATION, CONSPIRACY AND OTHER CAUSES OF ACTION**

11. In or about 2007, Pavel and Svetlana had filed an application with Immigration Canada to bring Alla and Valentin to Canada.
12. Alla and Valentin had numerous health issues, including cancer diagnosis, and access to Canadian health system was essential for their survival.
13. The parties agreed that the parents will forward Pavel and Svetlana all proceeds of sale of their assets in exchange for financial life support. Accordingly, the parents signed two wills naming Svetlana as a beneficiary of their estates respectively.

14. In or about 2007, the plaintiffs purchased a house, and in 2008 gave the parents a license to live with them with full life support.
15. In or about 2009, the plaintiffs, Alla and Valentin entered into contractual and/or fiduciary relationship with defendant YMCA for the purpose to integrate parents into Canadian society.
16. The family dealt directly with defendant Yana Skybin, an YMCA counselor. Ms. Skybin discussed all aspects of parents' involvement with YMCA with Svetlana. The family trusted Ms. Skybin at that time.
17. Pavel and Svetlana provided the parents with opportunity to move to a to be purchased condominium. The parents had rejected the opportunity.
18. In or about 2008, Pavel had invested the proceeds of sale into stocks. The investment was lost as a result of 2008-2009 stock market crash.
19. In or about 2009, Ms. Skybin had discovered that parents have transferred the proceeds of sale of their assets to Pavel and Svetlana. Accordingly, in bad faith and expecting acquiring part of the proceeds, without the plaintiffs' knowledge, she had being soliciting the parents to break the relationship with the plaintiffs.
20. In or about this time, Ms. Skybin had received expensive gifts from the parents in breach of her duties and responsibility as an YMCA employee.

21. In or about this time, Ms. Skybin had solicited the parents to imitate domestic abuse to take advantage of social housing and social welfare system and to breach the parents' contract with the plaintiffs to recover the proceeds of the sale.
22. At all material times, Ms. Skybin acted in bad faith and expected to receive compensation from the parents for her solicitation.
23. In or fall of 2011, unexpectedly to Pavel and Svetlana, Ms. Skybin arranged police and YMCA volunteers to appear at the plaintiffs house "to protect" the parents to move out of the plaintiffs house.
24. At this time, YMCA agents were making statements that Pavel and Svetlana had being physically and emotionally abusing the parents, had stolen the parents money in front of the Police, plaintiffs' neighbors and community.
25. After the parents had moved out, Pavel and Svetlana were very much concerned about safety and health of their older parents. They made a number of inquiries to find how they can be of assistance to the parents.
26. Subsequently, Pavel and Svetlana had found that the parents had being making defamatory statements about the plaintiffs to third parties, including, but not limited to, that the plaintiffs:
  - a) are individuals of bad character;
  - b) emotionally abused the parents;

- c) physically abused the parents and caused parents physical injuries;
- d) had stolen the parents' money;
- e) had breached their fiduciary duties acting without parents' authority;
- f) had stolen the parents' home;
- g) did not provide the parents with financial support, and
- h) other defamatory statements to harm the plaintiffs' character and reputation.

27. Subsequently, Pavel and Svetlana had found that Ms. Skybin and YMCA had been making defamatory statements about the plaintiffs to government authorities and third parties, including, but not limited to, that the plaintiffs:

- a) are individuals of bad character;
- b) emotionally abused the parents;
- c) physically abused the parents and caused parents physical injuries;
- d) had stolen the parents' money;
- e) had breached their fiduciary duties acting without parents' authority;
- f) had stolen the parents' home;
- g) did not provide the parents with financial support, and;
- h) other defamatory statements to harm the plaintiffs' character and reputation within the defendants' knowledge.

28. Subsequently, the parents had received a demand to pay the parents the money that was always agreed to be the plaintiffs'.
29. The plaintiffs state and it is true that the parents made defamatory statements in bad faith to damage the plaintiffs; breached the contracts between the plaintiffs and the parents; were negligent and reckless to the extent that they breached their duty of care to the plaintiffs, harassed and caused nuisance to the plaintiffs;, conspired with Ms. Skybin and YMCA to cause the plaintiffs harm and did or caused to do other intentional and negligent actions for which they are liable in law.
30. The plaintiffs state and it is true that Ms. Skybin and YMCA acted in bad faith; breached their contract with the plaintiff; were negligent and reckless to the extent that they breached their duty of care to the plaintiffs; breached trust and fiduciary duty to the plaintiffs; harassed and caused nuisance to the plaintiffs; interfered into contractual relations, conspired with the parents to cause the plaintiffs harm and did other actions for which they are liable in law.
31. The plaintiffs state that YMCA is jointly and vicariously liable for the actions of Ms. Skybin, an YMCA agent and employee.
32. As a result of the defendants' actions, the defendant incurred irreparable financial harm and damage to their reputation.

### **Prior to Sponsorship**

33. The plaintiffs, Svetlana and Pavel, immigrated to Canada on July 7, 2003 as Skilled Immigrant Workers. Both work in Information Technology and are very well educated. In 2004, Svetlana and Pavel began talking with Svetlana's mother and step-father, Alla and Valentin, about the possibility of sponsoring them to come to Canada. As the plaintiffs were new to Canada themselves and were still trying to find employment in their area of skill, they found that they were financially unable to sponsor her parents at that time. In order to enable the plaintiffs to help out Alla and Valentin, the parties all spoke and came up with their own individual sponsorship agreement based on the requirements for Citizenship and Immigration Canada.
34. At the time that the plaintiffs and their parents commenced discussions as to sponsorship, Pavel was employed on a full time basis with an income of \$49,000. Svetlana was working on an occasional basis and the majority of the money that she was making was provided as support to her parents in St. Petersburg, Russia.
35. Further, the plaintiffs had brought \$41,000 in cash to Canada during their immigration, which were the proceeds of the sale of Pavel's apartment which had been sold in Latvia.
36. At the time that the parents immigrated to Canada, the plaintiffs also had an adult daughter living with them who attended the University of Toronto. The plaintiffs were not in the financial position to be able to sponsor the parents without them contributing to their own financial support.

37. In November 2005, the plaintiffs opened a bank account number 63-14937 at CIBC, branch number 06022. This account is a joint account owned by Svetlana and the parents. During this time the plaintiffs would deposit money into the account which the parents would then be able to access in St. Petersburg.
38. In total, the plaintiffs provided the parents with more than \$22,547.91 in support prior to them arriving in Canada. The plaintiffs allege that much of those funds were used to support the parents came from automatic international withdrawals through ATMs in Russia. The additional support came from medical expenses that had been paid on behalf of the parents through credit card payments and in cash which had been earned by the plaintiffs. This CIBC account is the account that the plaintiffs continue to use to support the parents.
39. Prior to signing the Sponsorship Agreement in 2004, the parents promised to pay back all expenses plaintiffs spent on them before arrival to Canada from the proceedings after selling property in Russia.
40. In 2007, Pavel obtained new employment which significantly increased his salary and allowed them to consider more seriously the option to sponsor the parents.
41. The plaintiffs allege that during that time the plaintiffs, with her daughter, moved to a new apartment closer to Pavel's new employer and they began searching for a new home north of Toronto.
42. In June of that year, they found a builder in Innisfil, Ontario by the name of Pratt Homes, which offered a house purchase with a "low deposit structure" ("the House"). As they had money in RRSPs and savings they went ahead with the purchase of this new home. During the planning stages, they ensured that the house would be suitable to accommodate a family of five as they were hoping to sponsor the parents.

43. The mortgage for this property was pre-approved by TD Canada Trust in August 2007, which the plaintiffs allege was prior to their knowledge that the parents were going to be accepted for sponsorship.
44. The plaintiffs further allege that there was never any intention for the parents to be included on the title to this property as the property was purchased prior to the parents becoming permanent residents of Canada. At the time of purchase and construction, the plaintiffs were not sure whether they would keep the house or resell it once the construction was complete.
45. In or about October 2007, the parents were able to obtain a visitor's visa to come to Canada. While they were visiting the plaintiffs took them to Innisfil to see the lot where the house was to be built as well as showing them the replica model home. They took them to Lake Simcoe and had a picnic in the Innisfil Beach Park. The parents loved the location, the lake and the idea of residing there with their family. Despite this, the plaintiffs allege that they still had not yet decided if they were going to use the house as a residence or an investment property which would be resold but took parents' desire for consideration.

### **The Sponsorship of the Parents**

46. In April 2008, the plaintiffs were notified that the sponsorship of the parents had been accepted. The parents then commenced selling off all of their assets and transferring the money earned into Pavel and Svetlana's joint TD Canada Trust bank account. As per their verbal agreement, this money was then transferred into the plaintiffs joint brokerage account in Interactive Brokers so that it could be invested into the family business of trading stocks, options and currencies.

47. The plaintiffs allege that upon the parents' initial arrival to Canada, the builders had not yet completed the House that had been purchased by the plaintiffs. For this reason, the plaintiffs rented a second apartment in the same building for the parents to reside in while the construction was being completed.
48. The plaintiffs allege that to secure the apartment lease that they provided Park Property Management with a rent deposit of \$1,120.00 for this additional unit. Once the parents came and decided that they wanted to move into the House the plaintiffs had to cancel the rental agreement for the second unit and they lost their deposit. The plaintiffs allege that this loss was suffered solely by the plaintiffs.
49. On August 7, 2008, a year after the purchase, it was necessary for the plaintiffs to provide TD Canada Trust with verification of the balance of the down payment. This \$51,640.00 was withdrawn from Interactive Brokers brokerage account to minimize the number of transactions and brokers' commissions. The amount withdrawn represents Svetlana's share in the property sold by parents in Russia (25% of the apartment value). This transaction at the time being was obvious to do, and parents were completely on-board with it. Although the money from the parents' sale of assets was deposited into this account, the plaintiffs also had approximately \$40,000 invested in stocks and options on the same brokerage account in Interactive Brokers, \$28548 in stocks and options on CIBC Investor Edge brokerage account, \$7600 in stocks on Manulife Financial, \$11000 on RRSP in CIBC and \$23300 on RRSP in TD (approximately \$110448 overall).

50. The plaintiffs allege that on or about June 1, 2009, the plaintiffs and the parents went to Kerv Johnston Motors 1996 Ltd. operating as Barrie Honda Auto Sales to lease a 2009 Honda Civic SD for the parents and Svetlana. It was necessary that this vehicle be leased and insured in the names of the plaintiffs as the parents were unable to get financing. Further, it would be required that Svetlana also drive the vehicle in order to ensure that the parents get to their medical appointments, English classes, and other such appointments. With the family now sharing expenses, the plaintiffs were able to provide the parents with more than they would have been able to if they had to support two separate households. As per the requirements of the lease and insurance, this vehicle remains with the plaintiffs and they continue to make these lease payments and to maintain the insurance.
  
51. The plaintiffs allege that at the time that the parents began attending classes at the YMCA; Yana started telling the parents that there were many government services available in Canada which would allow the parents to live independently from the plaintiffs. As the parents and the plaintiffs are all bound by a Sponsorship Agreement, it was necessary for the plaintiffs to continually attempt to explain to the parents why they would be ineligible to apply for such services. At the persistence of Yana, the parents were never able to understand the explanations of the plaintiffs. They insisted that Yana, as an employee of the Newcomer Services, had greater knowledge of what services the parents would be eligible for.
  
52. The plaintiffs plead that although the parents provided the plaintiffs with many greeting cards and expressions of gratitude over the next two years, and though they also provided letters and emails to friends and family still in Russia expressing their happiness here in Canada and with the plaintiffs, this idea that Yana expressed to the parents of living independently did from time to time cause contention in the household.

53. The plaintiffs allege that in or about the summer of 2011, these contentions became more frequent and the parents fought more and more for their right to independence. Again the plaintiffs tried to explain to them that this was not in their best interest as the parents still could not communicate well in English, they were ineligible for the government funding which Yana was encouraging them to pursue and the plaintiffs simply could not afford to pay the costs of the mortgage on the house plus rent on another unit, all the utilities required for both dwellings, vehicle expenses for both households as well as all other necessities for both households.
  
54. The plaintiffs allege that by August, 2011 the parents complained to YMCA that the plaintiffs were mentally and physically abusing them. While the Police were never contacted and no formal investigation ever took place into these allegations, these allegations supported Yana's theory of "independent living" for the parents and allowed them to attempt to breach the Sponsorship Agreement with a clear conscience. As Yana knew the plaintiffs and the parents on a personal level and had been in their home on several occasions, she was well aware that these allegations were unfounded. However, working for YMCA Newcomers Services, she would also be aware that on the Sponsorship Agreement itself it states as the second paragraph under "IMPORTANT INFORMATION": "Sponsored persons and/or their families who are being abused or assaulted by their sponsors should seek safety away from their sponsors even if this means that they will have to apply for social assistance benefits." Yana was aware of this statement and breached her duty to parents, the Minister of Citizenship and Immigration by encouraging behavior she knew full well to be fraudulent, and the plaintiffs as taxpayers. As the Plaintiff Svetlana was actually the one who negotiated parents' acceptance at YMCA at the first place, Yana also breached her direct duty of care to Svetlana.

55. The plaintiffs allege that as a result of the parents breach to the amended agreement the plaintiffs have suffered substantial loss. The damages they are seeking are as follows:

**Past:**

- (b) \$22,547.91 in prior-to-coming-to-Canada support, including rent on the apartment;
- (c) \$5,307.41 for vehicle lease payments;
- (d) \$440.70 for vehicle maintenance;
- (d) \$1,248.75 in vehicle insurance payments;
- (e) \$8,489 in second household expenses;
- (f) \$5,823.48 losses associated with parents' CPL motion;

**Future:**

- (a) \$45,500.00 losses in tax return;
- (b) \$6,039.93 vehicle lease payments until May 2014;
- (c) \$2,675.00 vehicle insurance payments until May 2014, and;
- (d) \$21,680.30 for second household expenses.

56. Yana has breached her duty of care, owed to the plaintiffs, as follows:
- a. by failing to properly investigate the allegation of the plaintiffs abusing the Defendant parents as required under the policies and procedures for YMCA, or in her capacity as a settlement counselor responsible for the Defendants welfare.
  - b. by encouraging the parents to seek government assistance in breach of their sponsorship agreement without ensuring a proper investigation had been completed and a finding made that there was abuse.

- c. by assisting the parents in applying for funding programs that they would not qualify for by encouraging the defendants to make fraudulent declarations relating to alleged abuse and their financial status.
- d. helping them to hide pertinent bank account information in attempts to receive government assistance
- e. failing to ensure that they were able to understand the consequences of the actions she was encouraging them to pursue, and
- f. encouraging the separation of the family unit which has created contention in what was previously a very happy and functional family.

57. YMCA has failed to meet the duty of care owed to the plaintiffs, as follows:

- a. failing to ensure that their staff provide the services that they were sought to provide,
- b. failing to ensure that their staff was maintaining appropriate boundaries in the counsel they provide to the patrons of the YMCA,
- c. failing to ensure that their staff not provide unqualified legal advice to their patrons,
- d. failing to protect their patrons from the harm that comes from the exercise unqualified, unsolicited legal advice,
- e. failing to ensure that their staff follow proper policies and procedures when allegations such as abuse arise,
- f. failing to ensure that a proper complaint was made to the authorities to investigate such allegations of abuse,
- g. failing to prevent Yana from behaving in a way that breaches her ethical duty to the clients of YMCA and the Minister of Citizenship and Immigration as the office in which she is employed is fully funded by the Minister of Citizenship and Immigration.

58. Furthermore, the plaintiffs claim damages against the Defendants YMCA and Yana Skybin, and all sums of money that are claimed against the defendant parents, the plaintiffs allege that their losses were either caused or contributed to by the negligence of Yana Skybin and YMCA.
59. The plaintiffs have suffered emotionally and mentally as a result of this loss of family unity and relationships with the parents and the greater Russian-Canadian community.
60. The plaintiffs propose that this action be tried in the City of Barrie, in the County of Simcoe.

Date: December 15, 2015

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Court File No.: 12-0545-SR/  
13-1101

Plaintiffs

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED  
AT BARRIE

**FRESH AS AMENDED  
STATEMENT OF CLAIM**

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