

No.
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BRIAN BURKE

PLAINTIFF

AND:

**JOHN DOES #1 TO #18, a.k.a. “NOFIXEDADDRESS”, “CAMBARKERFAN”,
“LAVY16”, “MBSKIDMORE”, “TULOWD”, “LOOB”, “NAGGAH”,
“MOWERMAN”, “AARONP18”, “STEVE”, “KABOOMIN8”,
“THEZBRAD”, “SLOBBERFACE”, “POONERMAN”,
“ISOLATEDCIRCUIT”, “KANADA KEV”,
“NCOGNITO” AND “SIR PSYCHO SEXY”**

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,

- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Parties

1. The Plaintiff, Brian Burke, was from November, 2008 to January 2013 the President and General Manager of the Toronto Maple Leafs professional ice hockey team.
2. The Plaintiff is currently employed by the Anaheim Ducks professional hockey team. The Plaintiff resides in Toronto, Ontario.
3. The Plaintiff is regularly in British Columbia, has business interests in British Columbia and has an interest in residential property in British Columbia and Orange County, California
4. The Plaintiff has a well-established professional reputation throughout Canada and the United States, as a general manager and executive of professional hockey teams, including the Vancouver Canucks, the Anaheim Ducks and the Toronto Maple Leafs, and as an executive with the National Hockey League.
5. The Plaintiff was employed by the Vancouver Canucks professional ice hockey team from 1987 to 1992 as its director of hockey operations.
6. During the 1992 – 1993 NHL season, the Plaintiff was the general manager of the Hartford Whalers professional ice hockey team.
7. From 1993 to 1998, the Plaintiff was employed by the National Hockey League as an executive Vice President and director of hockey operations.
8. From 1998 to 2004, the Plaintiff was the general manager of the Vancouver Canucks.

9. From 2005 to 2008, the Plaintiff was the general manager of the Anaheim Ducks.
10. In 2010, the Plaintiff was the general manager for the United States national men's ice hockey team which competed in the 2010 Winter Olympics in Vancouver.
11. The identity and residence of the Defendants, John Does #1 to #18, are unknown to the Plaintiff.
12. The Defendants are known to the Plaintiff only by the names under which they have published comments about the Plaintiff on internet websites which are or appear to be based in Canada, as set out in **Schedule "A"**.

Defamation

13. On or about the dates and times set out in **Schedule "A"**, the Defendants, individually or jointly, wrote and published, or caused to be published the following defamatory statements about and concerning the Plaintiff (the "**Defamatory Statements**"):
 - Contrary to popular belief, the reason for Burke's firing was not his willingness to pull off the Roberto Luongo trade....
 - Well it didn't take long for Brain Burke and Hazel Mae to hook up. In the summer of 2012, Sportsnet removed her from the glass desk because she wouldn't fit, insisting that she stand while on air. The reason she wouldn't fit is that she was pregnant. She became so dishevelled looking as the summer wore on that Sportsnet sent her home while they decided how to handle the impending scandal.
 - Scandal, you say? Well yessirr.....The father could have been any number of worthy candidates, but the lucky dad is, in fact, our very own Brian Burke.
 - So splashdown was back in December. Hazel and Burkie have been at odds as to if, how and when to release the news. Sportsnet still doesn't know what to do with her. On the other hand, new owners of the Toronto Maple Leafs in Bell Canada have little, if any, tolerance for egotistical, belligerent, sex-addicted senior executives and decided to eliminate the problem by gassing Burke."

14. The words set out in the paragraph above referred to, or were understood to refer to the Plaintiff, as they referenced the Plaintiff by name, and in their natural and ordinary meaning meant and were understood to mean that:
 - (a) The Plaintiff had a sexual relationship with the Rogers Sportsnet reporter Hazel Mae; and
 - (b) The Plaintiff is the father of Hazel Mae's child.
15. Both of these meanings are false and defamatory.
16. The Defamatory Statements have been published, republished, downloaded, viewed and commented on by persons in British Columbia and Ontario and throughout Canada and the United States by various means, including through email, internet bulletin board postings, Facebook pages and Twitter messages, and have harmed the Plaintiff's reputation in, amongst other jurisdictions, British Columbia, Ontario, and other parts of Canada and the United States
17. The Defamatory Statements were made with the knowledge that they were false or with a reckless disregard for their truth.
18. In publishing the Defamatory Statements, the Defendants were motivated by actual and express malice, and had the intention of damaging the Plaintiff's reputation.
19. Each of the Defamatory Statements was clearly intended to refer and would reasonably be understood to refer to the Plaintiff.
20. As a result of the Defamatory Statements the Plaintiff has suffered, and continues to suffer, losses and damages consisting of damage to reputation generally and damage to professional reputation.

Part 2: RELIEF SOUGHT

1. An injunction restraining each Defendant, by himself, herself or itself or by his, her or its agents, servants or otherwise, from publishing or causing to be published on the internet

or by any other method or medium, the Defamatory Statements, or any substantially similar defamatory statements.

2. General damages.
3. Special damages.
4. Aggravated and punitive damages.
5. Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79.
6. Special or, in the alternative, increased costs or, in the further alternative, costs.

Part 3: LEGAL BASIS

1. The Defendants committed the tort of defamation.
2. The Plaintiff has suffered loss and damage.

Plaintiffs' address for service: Heenan Blaikie LLP
2200 - 1055 West Hastings Street
Vancouver, B.C. V6E 2E9
Attn: Peter A. Gall, Q.C.

Fax number address for service (if any): 604 669-5101

E-mail address for service (if any): N/A

Place of trial: Vancouver

The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

Date: April 26, 2013

Signature of Peter A. Gall, Q.C.
Lawyer for the Plaintiff

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

SCHEDULE "A"

1. "NoFixedAddress" on January 12, 2013, on <http://forums.redflagdeals.com/leafs-talk-did-mike-komisarek-waiver-get-lost-181059/1937>.
2. "CamBarkerFan" on January 12, 2013, on <http://hockeybroads.com/threads/33287-Burke-Fired-II-It-was-really-just-a-three-level-demotion>.
3. "Lavy16" on January 17, 2013, on <http://forums.prosportsdaily.com/showthread.php?795028-Burke-is-GONE>
4. "mbskidmore" on January 17, 2013, on <http://www.torontogolfnuts.com/showthread.php?t=108421>.
5. "Tulowd" on January 12, 2013, on <http://gtamc.com/showthread.php?117180-Brian-Burke-Fired-the-real-reason>
6. "Loob" on January 12, 2013, on <http://forum.calgarypuck.com>
7. "Naggah" on January 23, 2013, on <http://hfbboards.hockeysfuture.com/showthread.php?p=58166689>
8. "mowerman" on January 19, 2013, on <http://www.hawthornevillager.com/phpbb/viewtopic.php?f=1&t=48291&view=previous>
9. "Aaronp18" on January 28, 2013, on <http://www.canuckscorner.com/forums/viewtopic.php?f=8&p=157243#p157224>
10. "Steve" on January 13, 2013, on <http://fourhockeyfans.blogspot.ca/2013/01/igned-sealed-and-delivered-from-fucking.html>
11. "KaBoomin8" on January 21, 2013, on <http://www.bbkl.ca/viewtopic.php?f=5&p=119382&sid=c143b9798cea3e4cd426f9e72e3774b3#p119379>
12. "THEzbrad" on January 17, 2013, on <http://trilltimes.wordpress.com/2013/01/17/brian-burke-firing-was-personal-due-to-sexual-affair/>
13. "Slobberface" on January 18, 2013, on <http://www.torontojungle.com/forum/showthread.php/80763-Leafs/>
14. "Poonerman" on January 18, 2013, on <http://perb.ca/vbulletin/showthread.php?177999-Brian-Burke-Fired!!!>

15. “isolatedcircuit” on January 13, 2013, on <http://isolatedcircuit.wordpress.com/2013/01/31/brian-burkes-suspected-reason-for-being-released/>
16. “Kanada Kev” on January 17, 2013, on http://www.jambands.ca/sanctuary/showtopic.php?tid/262944/tp/2/fbb_session_id/ff4cc012244c5bc31ebc48295aaa40bd/
17. “Ncognito” on January 13, 2013 on <http://www.hockeyinsideout.com/news/training-camp-notes-on-gomez-leblanc-and-galchenyuk>
18. “sir psycho sexy” on January 15, 2013, on <http://www.forumice.com/showthread.php?54255-Leafs-FIRE-Burke&s=6f6a3ba04de0c110039e3febf806f879&p=1929808&viewfull=1#post1929808>

FORM 11
(RULE 4-5(2))

ENDORSEMENT FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff, Brian Burke, claims the right to serve this pleading on the Defendants outside British Columbia on the ground that there is a real and substantial connection between British Columbia and the facts on which this pleading is based, including but not limited to the fact that this pleading concerns a tort committed in British Columbia and includes a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Claim for damages arising from defamatory statements made on the internet.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]