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November 25, 2013

**VIA FAX (705)327-3188**

Douglas Anderson Law Office  
Barrister & Solicitor  
190 Memorial Avenue  
ORILLIA ON L3V 5X6

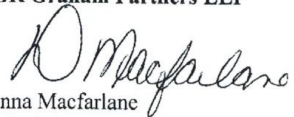
Dear Sir:

**RE: RUPERT – MULLINS-JOHNSON**  
**OUR FILE NO. 79.197.001**

To date we have not received your Notice of Change in Representation. Accordingly, as you continue to be solicitor of record, we are serving on your our Amended Application. By way of copy of this letter we are providing a copy to Mr. Markin.

Yours very truly,

**HGR Graham Partners LLP**

  
Donna Macfarlane  
DMM:bd

Copy: Joseph Markin  
Fax 416-966-2883

Copy: client

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*URGENT*  
*2 - Mail to client*



Superior Court of Justice
(Name of Court)
at 3 Dominion Street, Bracebridge, Ontario P1L 2E6
(Court office address)

Court File Number

AMENDED
Form 8: Application
(General)

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).
CHRISTINE RUPERT
423 Santas Village Road
Bracebridge On P1L 1W8
Donna Macfarlane
HGR Graham Partners LLP
518 Yonge Street
MIDLAND, ON L4R 2C5
Tel: 705-526-2231
Fax: 705-526-0313
DMacfarlane@hgrgp.ca

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).
WILLIAMS MULLINS JOHNSON
Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Amended pursuant to Rule 11C(1) of the Family Law Rules

TO THE RESPONDENT(S):

A COURT CASE HAS BEEN STARTED AGAINST YOU IN THIS COURT. THE DETAILS ARE SET OUT ON THE ATTACHED PAGES.

[x] THE FIRST COURT DATE IS (date) Oct 23, 2013 AT 9:30 a.m. [ ] p.m. or as soon as possible after that time, at: (address) 3 Dominion Street, Bracebridge, Ontario P0L 2E6

NOTE: If this is a divorce case, no date will be set unless an Answer is filed. If you have also been served with a notice of motion, there may be an earlier court date and you or your lawyer should come to court for the motion.

- [ ] THIS CASE IS ON THE FAST TRACK OF THE CASE MANAGEMENT SYSTEM. A case management judge will be assigned by the time this case first comes before a judge.
[ ] THIS CASE IS ON THE STANDARD TRACK OF THE CASE MANAGEMENT SYSTEM. No court date has been set for this case but, if you have been served with a notice of motion, it has a court date and you or your lawyer should come to court for the motion. A case management judge will not be assigned until one of the parties asks the clerk of the court to schedule a case conference or until a motion is scheduled, whichever comes first.

IF, AFTER 365 DAYS, THE CASE HAS NOT BEEN SCHEDULED FOR TRIAL, the clerk of the court will send out a warning that the case will be dismissed within 60 days unless the parties file proof that the case has been settled or one of the parties asks for a case or a settlement conference.

IF YOU WANT TO OPPOSE ANY CLAIM IN THIS CASE, you or your lawyer must prepare an Answer (Form 10 — a blank copy should be attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service (Form 6B). YOU HAVE ONLY 30 DAYS AFTER THIS APPLICATION IS SERVED ON YOU (60 DAYS IF THIS APPLICATION IS SERVED ON YOU OUTSIDE CANADA OR THE UNITED STATES) TO SERVE AND FILE AN ANSWER. IF YOU DO NOT, THE CASE WILL GO AHEAD WITHOUT YOU AND THE COURT MAY MAKE AN ORDER AND ENFORCE IT AGAINST YOU.

Check the box of the paragraph that applies to your case

[ ] This case includes a claim for support. It does not include a claim for property or exclusive possession of the matrimonial home and its contents. You MUST fill out a Financial Statement (Form 13 — a blank copy attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service even if you do not answer this case.

Form 8: Application (General) (page 2)

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matrimonial home and its contents. You **MUST** fill out a Financial Statement (Form 13 – a blank copy attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service even if you do not answer this case.

This case includes a claim for property or exclusive possession of the matrimonial home and its contents. You **MUST** fill out a Financial Statement (Form 13.1 – a blank copy attached), serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service even if you do not answer this case.

**IF YOU WANT TO MAKE A CLAIM OF YOUR OWN**, you or your lawyer must fill out the claim portion in the Answer, serve a copy on the applicant(s) and file a copy in the court office with an Affidavit of Service.

- If you want to make a claim for support but do not want to make a claim for property or exclusive possession of the matrimonial home and its contents, you **MUST** fill out a Financial Statement (Form 13), serve a copy on the applicant(s) and file a copy in the court office.
- However, if your only claim for support is for child support in the table amount specified under the Child Support Guidelines, you do not need to fill out, serve or file a Financial Statement.
- If you want to make a claim for property or exclusive possession of the matrimonial home and its contents, whether or not it includes a claim for support, you **MUST** fill out a Financial Statement (Form 13.1, not Form 13), serve a copy on the applicant(s), and file a copy in the court office.

**YOU SHOULD GET LEGAL ADVICE ABOUT THIS CASE RIGHT AWAY.** If you cannot afford a lawyer, you may be able to get help from your local Legal Aid Ontario office. (See your telephone directory under LEGAL AID.)

Amended Pursuant to Rule 11(1) of the Family Law Ruls

Sept 10, 2013  
Date of issue

Chye Ferguson  
Clerk of the court

Form 8: Application (General) (page 3)

Court File Number

FAMILY HISTORY

**APPLICANT:** Age: 43 Birthdate: (d, m, y) April 9, 1970  
 Resident in (municipality & province) Town of Huntsville and Town of Bracebridge, Province of Ontario  
 since (date) 2010  
 Surname at birth: \_\_\_\_\_  
 Surname just before marriage: \_\_\_\_\_  
 Divorced before?  No  Yes (Place and date of previous divorce)

**RESPONDENT:** Age: 42 Birthdate: (d, m, y) Sept. 15/70  
 Resident in (municipality & province) Town of Huntsville and Town of Bracebridge, Province of Ontario  
 since (date) 2010  
 Surname at birth: \_\_\_\_\_  
 Surname just before marriage: \_\_\_\_\_  
 Divorced before?  No  Yes (Place and date of previous divorce)

RELATIONSHIP DATES:

Married on (date) \_\_\_\_\_  Started living together on (date) July 2010  
 Separated on (date) Aug. 31, 2013  Never lived together  Still living together

THE CHILD(REN): List all children involved in this case, even if no claim is made for these children.

Full legal name	Age	Birthdate (d, m, y)	Resident in (municipality & province)	Now Living with (name of person and relationship to child)

PREVIOUS CASES OR AGREEMENTS

Have the parties or the children been in a court case before?  
 No  Yes

Have the parties made a written agreement dealing with any matter involved in this case?  
 No  Yes (Give date of agreement. Indicate which of its items are in dispute.)

Have the parties arbitrated or agreed to arbitrate any matter involved in this case?  
 No  Yes (Give date of agreement and family arbitration award, if any.)

Amended Pursuant to Rule 11(1) of the Family Law Rules

## Form 8: Application (General) (page 4)

Court File Number \_\_\_\_\_

## CLAIM BY APPLICANT

I ASK THE COURT FOR THE FOLLOWING: (Claims below include claims for temporary orders.)

Claims under the Divorce Act (Check boxes in this column only if you are asking for a divorce and your case is in the Superior Court of Justice or Family Court of the Superior Court of Justice.)	Claims under the Family Law Act or Children's Law Reform Act	Claims relating to property (Check boxes in this column only if your case is in the Superior Court of Justice or Family Court of the Superior Court of Justice.)
00 <input type="checkbox"/> a divorce 01 <input type="checkbox"/> support for me 02 <input type="checkbox"/> support for child(ren) – table amount 03 <input type="checkbox"/> support for child(ren) – other than table amount 04 <input type="checkbox"/> custody of child(ren) 05 <input type="checkbox"/> access to child(ren)	10 <input checked="" type="checkbox"/> support for me 11 <input type="checkbox"/> support for child(ren) – table amount 12 <input type="checkbox"/> support for child(ren) – other than table amount 13 <input type="checkbox"/> custody of child(ren) 14 <input type="checkbox"/> access to child(ren) 15 <input checked="" type="checkbox"/> restraining/non - harassment order 16 <input checked="" type="checkbox"/> indexing spousal support 17 <input type="checkbox"/> declaration of parentage 18 <input type="checkbox"/> guardianship over child's property	20 <input type="checkbox"/> equalization of net family properties 21 <input type="checkbox"/> exclusive possession of matrimonial home 22 <input type="checkbox"/> exclusive possession of contents of matrimonial home 23 <input type="checkbox"/> freezing assets 24 <input checked="" type="checkbox"/> sale of family property
<b>Other claims</b> 30 <input checked="" type="checkbox"/> costs 31 <input type="checkbox"/> annulment of marriage 32 <input checked="" type="checkbox"/> prejudgment interest 33 <input type="checkbox"/> claims relating to a family arbitration		50 <input checked="" type="checkbox"/> Other (Specify.) (i) <u>Damages in an amount to be determined by reason of physical, emotional and sexual abuse of the Respondent upon the Applicant.</u> (ii) <u>An Order that the claim commenced by William Mullins Johnson (Plaintiff) and Christine Rupert (Defendant) action #CV-13-00492026-0000 commenced in Toronto, be transferred to the Bracebridge Court and be consolidated with the within Family Law proceeding.</u>

Amended Pursuant to Rule 11(1) of the Family Law Rules

Give details of the order that you want the court to make. (Include any amounts of support (if known) and the names of the children for whom support, custody or access is claimed.)

- An Order restraining the Respondent from attending at our jointly owned residence at 423 Santa's Village Road, Bracebridge, Ontario P1L 1W8.
- An Order restraining the Respondent from communicating directly or indirectly with me, except through counsel.
- An Order restraining the Respondent from coming within 500 metres of me.
- An Order restraining the Respondent from attending our jointly owned property at 147 Stahl's Road, Huntsville, Ontario, which property is rented to tenants.
- Damages in an amount to be determined by reason of physical, emotional and sexual abuse of the Respondent upon the Applicant.
- An Order that the claim commenced by William Mullins Johnson (Plaintiff) and Christine Rupert

## Form 8: Application (General) (page 5)

Court File Number \_\_\_\_\_

(Defendant) action #CV-13-00492026-0000 commenced in Toronto, be transferred to the Bracebridge Court and be consolidated with the within Family Law proceeding.

### IMPORTANT FACTS SUPPORTING MY CLAIM FOR DIVORCE

- Separation:** The spouses have lived separate and apart since (date) \_\_\_\_\_ and  
 have not lived together again since that date in an unsuccessful attempt to reconcile.  
 have lived together again during the following period(s) in an unsuccessful attempt to reconcile:  
 (Give dates.)
- Adultery:** The respondent has committed adultery. (Give details. It is not necessary to name any other person involved but, if you do name the other person, then you must serve this application on the other person.)
- Cruelty:** The respondent has treated the applicant with physical or mental cruelty of such a kind as to make continued cohabitation intolerable. (Give details.)

### IMPORTANT FACTS SUPPORTING MY OTHER CLAIM(S)

(Set out below the facts that form the legal basis for your other claim(s).)

1. ~~The parties commenced cohabitation in or about 2010. They separated on or about August 31, 2013.~~
2. ~~During the relationship the Respondent, The Respondent Mullins Johnson ("The Respondent") has committed several acts of violence toward the Applicant, The Applicant Rupert ("The Applicant"). His violence is exacerbated by drug use.~~
3. ~~The Applicant requires an Order restraining The Respondent from coming to the parties' jointly owned residences or communicating directly, or directly with her, except through counsel in order that the terms of a Separation Agreement may be negotiated in a reasonable manner, without The Respondent causing fear and intimidation on the part of The Applicant.~~

#### **History of Relationship:**

1. The Applicant, Christine Rupert, is 43 years old. Since 1997 she has been collecting WSIB disability income as a result a workplace injury. She has nerve damage to her hand. She receives \$400.00 per week from my WSIB pension.
2. Christine Rupert has three sons, Mike Ouimet, who is age 29, is actually her biological brother but she has raised him as his parent. He is presently studying business at Laurentian University in Sudbury.
3. Her son, Christopher Hewitt, is 25 years old. He resides with Mike in Sudbury and is working at the moment, intending to start university in January. Christine Rupert's youngest child, Cory Hudson, resides in Kitchener with his father. She has liberal and generous access with him.
4. The Respondent, William Mullins Johnson, was convicted in 1994 of the 1993 sexual assault and murder of his four year old niece in the home of his brother's family with whom he was living near Sault Ste. Marie. The conviction was over-turned in October 2007, after he had served 13 years in prison. The forensic pathologist, Charles Randall Smith's testimony had helped convict the Respondent. The Respondent's case was one of many that were investigated when it was discovered that Charles Randall Smith's standard of practice was seriously inadequate.
5. When the Applicant met the Respondent in early 2010 he had recently been released from prison. He had very little furniture and was eating at a food bank. The Applicant assisted him financially when he was in

Amended Pursuant to Rule 11(17) of the Family Law Rules

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need.

6. The parties started living together in or about July 2010. Christine Rupert became pregnant by William Mullins Johnson and suffered an ectopic pregnancy.
7. In October 2010, the Respondent received a compensation award from the Ontario Government of 4.25 million dollars.
8. The parties relationship has been affected throughout its duration by the Respondent's depression and mood swings.
9. In December 2010, the Respondent started using crack cocaine while they were living in Sault Ste. Marie. The Respondent's brother, Leslie, was a heavy user of crack cocaine. The parties decided that the environment of Sault St. Marie was not good for them. They headed south looking for a new start.
10. The Applicant found a house in Huntsville, which is located at 147 Stahls Road, which they purchased as joint tenants. The Applicant renovated the house herself and brought it up to fire code.
11. The Respondent started exercising control and exhibiting signs of paranoia. When the Applicant went to Kitchener to visit with her son, the Respondent threw furniture around and accused her of infidelity. He attended at the parties' lawyer's office in Huntsville and had a meltdown telling the lawyer that he wanted her off the transaction to purchase the Stahls Road residence.
12. The relationship got progressively worse with the Respondent Mullin Johnson's mood swings and drug use.
13. When the Applicant wanted to go to a doctor's appointment in May in Kitchener and to visit with her son, Cory, the Respondent insisted on sending his brother, Paul, with the Applicant as a chaperone. He kept accusing her of dealing drugs and cheating on him, accusations that had no basis in fact.
14. The Applicant has no history of drug or alcohol abuse. She does take pain medications for the nerve damage to her hand. The Applicant is compliant with her doctor's prescription. She receives 30 pain pills per month and take approximately 10 to 20.
15. The Respondent was attending at counselling until he got his compensation award. It was helpful for him. After he received his compensation he stopped going to counselling.
16. In October 2012, the parties purchased the home on Santa's Village Road, Bracebridge, Ontario as joint tenants for approximately \$440,000.
17. The parties rented out the house on Stahl's Road, Huntsville. The parties put a home equity line of credit on the Stahl's Road property of \$258,000.00 to assist with purchase and renovation of the Santa's Village Road property. There is also a 50,000.00 home equity line of credit against the Santa's Village Road property.
18. Both parties are on title to both properties as joint tenants and are both liable on the home equity lines of credit.
19. Since separation, the Applicant has taken out more money on the home equity line of credit in order to provide a cushion for her living expenses, legal fees and extraordinary expenses that she may have while the separation is being negotiated. The Applicant will be fully accountable for this increase in the home equity line of credit as it is solely for her benefit.

Amended pursuant to Rule 11(1) of the Family Law Rules

**Specifics of Abuse:**

Amended pursuant to Rule 11(d) of the Family Law Rules

20. In or about June 2011 William Mullin Johnston's mood became progressively worse. On a Friday morning he got up and seemed alright. However, he was very edgy, and became irrationally angry with the Applicant. He grabbed her by the face and shook her and said "How do you like that?" When he left to get some gas for a lawn mower the Applicant called Chrysalis Women's Shelter in Huntsville. She made arrangements for outreach support and mental health support. She was very upset and nervous about the Respondent's aggressiveness. She has very high blood pressure and his anger was causing her a significant amount of distress. The Respondent returned home for a time being, and then left for the evening. He returned to the house at about 9:30 p.m. and smoked crack cocaine all evening. He asked the Applicant why she was ill and anxious. She told him that he frightened her. At the time, the Applicant weigh approximately 130 lbs. and the Respondent is 270 lbs. He is physically very intimidating.
21. Over the next 10 hours the Respondent smoked approximately \$500.00 in crack cocaine. He became very angry in the afternoon. He came at the Applicant screaming, "We've got a problem". "You don't want to sleep with me." He began throwing things; pots and pans and a computer chair at her. The Applicant began to hyperventilate and fell to the floor. She told him "You are being violent and I didn't do anything". He accused her of Face Book communications with people. He railed at her for a very long time, which the Applicant estimated in excess of six hours.
22. He threw the computer her. The Applicant tried to calm him down and to clean up the mess on the floor. She begged him to take her to the hospital as she was feeling extremely unwell. She had the phone and pushed redial so it connected her to the Chrysalis Shelter. The Respondent screamed at her "You are not fucking going any where". Chrysalis recorded his harangue of about 40 minutes. Chrysalis called the OPP and they arrived at 8:30 p.m.
23. The Respondent's temper was at a very high level. He screamed at the police, "Do you have a warrant?" "You going to beat me up?". The police put the Applicant in an ambulance and told her not to return to the house. They wanted the Applicant to make a statement. She ended up going to Chrysalis. The shelter worker wanted her to call the police. She was afraid to do so. However, the Respondent clearly had confined the Applicant in a way that could have resulted in a stroke, or worse.
24. The Applicant stayed at the shelter for approximately one month.
25. The parties eventually reconciled and the Applicant returned to the home. She never made a police report. In fact, the police spoke with her while she was in the shelter. They indicated that when they realized who the Respondent was and his history of having been incarcerated as an innocent man, they told her that they had wanted to return to the house and explain to him that all police are not bad.
26. The Applicant got the distinct impression that the police were rather star-struck by the Respondent, or perhaps afraid of legal ramifications if they arrested him.
27. Over the next two years, the Applicant found that she spent most of her time trying to keep the Respondent calm. The Respondent began using Marijuana to a serious extent. He would spend approximately \$1,000.00 a month on his marijuana habit.
28. William Mullins Johnson would periodically go to Sault Ste. Marie. On his return he would accuse the Applicant of using crack and sleeping with the landscaper. Both accusations are patently false.
29. The parties attended with a couples' therapist, Peter Golderbloem. The Respondent also had his own counsellor, Tom Walkling. These counselling services are paid for by the Goudge Inquiry.



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Amended Pursuant to Rule 11(1) of the Family Law Rules

30. The Respondent's behaviour accelerated. He threatened to put the Applicant through a wall.
31. The Respondent has on several occasions assaulted the Applicant sexually. In or about the month of August 2013, the Applicant went to bed after the parties attended a camp fire. She had had three to four glasses of wine. The Respondent would not accept no for an answer, and forced himself on her sexually.
32. The Respondent has threatened to light the house on fire.
33. On another occasion, Christine Rupert found it necessary to call Tom Walkling, the Respondent's personal therapist, as the Respondent had me cornered in the garage and was spitting all over and screaming at the Applicant.
34. When Tom Walkling came to the house, the Respondent admitted to him the forceable confinement that resulted in the Applicant going to Chrysalis. He also admitted to raping the Applicant in August 2013.
35. Tom Walkling told the Applicant that she should leave the house. He was very concerned for her safety. Tom Walkling told the Applicant to pack everything and go and leave the dogs. He said to her "Don't get shot in the front yard." While The Respondent does not own any guns, he is aboriginal and his extended family have guns for hunting.
36. Peter Gelderbloem has also expressed his concern for Christine Rupert's safety.
37. Tom Walkling eventually left, as he understood that my mother was coming up to stay with her and Tom felt that the Applicant would be safe with her.
38. When the Applicant's mother arrived, the Respondent started pacing. He did not want to be near the Applicant's mother. He stayed downstairs for the evening and all through the night. However, he would periodically walk up the stairs to see what was going on. On the Saturday morning he came up and told the Applicant "We are selling. You are setting me up for a rape and forceable confinement charge".
39. The Applicant has paid all of the bills since October 2013. The Respondent pays his Visa, Master Card bill and the cable bill.
40. Following his announcement that the parties were selling the house, he called the cable company and had the cable bills transferred in to the Applicant.
41. He went to the home of a real estate agent, and told Nancy Misservy of Century 21 that the parties were listing the house.
42. The Respondent wanted to close the parties' joint bank account as he did not want the Applicant to have access to the money that was in it. The Applicant explained to him that the money in the joint bank account was needed for property taxes.
43. The Respondent screamed and cried and eventually left the home.
44. The Respondent went up to Sault Ste. Marie and stayed with his mother. He then started sending the Applicant Face Book messages saying that he would be sending his mother down to live in the house. The Applicant did not want the Respondent's mother coming to the house. She is a large and intimidating woman. The Applicant has fear of her as well.

**Form 8: Application (General) (page 9)**

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- Amended pursuant to Rule 11(1) of the Family Law Rules*
45. The Applicant has knowledge of the fact that before the Respondent relationship with her, he had a previous incident with another girlfriend. The Applicant understand that he was charged with assault because a knife was involved. The Respondent told the Applicant that he was arrested and spread his feces all over the jail cell.
  46. The Respondent has told the Applicant that the event in which he confined her it was her fault, because she had "secret friends". He was smoking crack at the time.
  47. The Applicant met with counsel on Friday, September 6, 2013, after The Respondent left the parties home and announced that the house would have to be sold.
  48. William Mullins Johnson told Applicant by Facebook message that his mother is coming down and will be living in the lower level of the home with him.
  49. William Mullins Johnson told the Applicant to clear out dressers in the basement. He also indicated that he was arranging for a lock smith to change the locks on the outside garage door and the inside door leading to the lower level.
  50. The Applicant could not remain in the home if the Respondent returned. She had nowhere else to go. The Respondent could have remained with his mother in Sault Ste. Marie while the parties negotiated the terms of a separation.
  51. Knowing that the Respondent was going to returning to the Bracebridge area, the Applicant spent a weekend in Sudbury with her sons. However, they live in a small two bedroom apartment and she could not remain there.
  52. If the Applicant did not have a residence, she would have had nowhere to bring her 10 year old son, Cory, for access visitation.
  53. On Friday, September 6, 2013, after meeting with counsel, the Applicant attended at the Bracebridge OPP to report the Respondent's violence toward her. The OPP told her that they will have to investigate and speak with the police in Huntsville, which is where the forcable confinement occurred. The police advised her to stay elsewhere, telling her to stay at a pet friendly motel as she has two large dogs. However this was not a long term solution for her.
  54. To this date, the police have not determined whether they will lay charges against The Respondent. This leaves the Applicant in a very vulnerable position. The Applicant is seeking a Restraining Order for her physical and emotional safety.
  55. The Applicant received a call from the Stahl's Road tenants on Saturday, September 7, 2013. The tenants had gone in to town and left their teenage son watching their two youngsters at the home. The Respondent showed up at the rental property with another person, presumably his brother. The teenage son remarked that the men walked all over the property. He thought that they were doing drugs. The tenants were very upset at the unannounced attendance by The Respondent.
  56. The Applicant obtained an Order in the Family Law proceeding, on an urgent basis, restraining the Respondent from coming to the parties' jointly owned residence, or communicating directly, or indirectly, with her except through counsel in order that the terms of a Separation Agreement could be negotiated in a reasonable manner, without the Respondent causing fear and intimidation on the part of the Applicant.
  57. The Restraining Order continues in effect, with the consent of the Respondent.

**Spousal Support:**

58. During the course of the relationship, both parties contributed their funds and income to the standard of living that they both enjoy. The Respondent has much greater capacity by reason of his damages award and the income he is able to generate from it.

59. The Applicant, by reason of the role that she took during the course of the relationship, has a need and entitlement to support.

60. The Applicant therefore seeks time limited spousal support in accordance with the terms of the Spousal Support Advisory Guidelines once the incomes of the parties is determined.

**Sale of Property:**

61. The Applicant seeks an Order for the sale of residential properties owned jointly by the Applicant and the Respondent as follows:

- (i) Pt. Lt. 8 RCP 550 Monck as in DM334683, Bracebridge, the District Municipality of Muskoka and municipally known as 423 Santa's Village Road, Bracebridge, Ontario; and
- (ii) Pt. Lt. 18, Con. 12 Chaffey Pt. 7, 34R4712, Huntsville, the District Municipality of Muskoka, municipally known as 147 Stahls Road, Huntsville, Ontario, and more particular described on Schedule "A" hereto.

62. The Applicant seeks an Order that the net proceeds of sale shall be divided equally between the parties after an accounting for expenses paid by the Applicant on the Respondent's behalf post-separation.

**Consolidation of Proceedings:**

63. The Applicant, through counsel, was in negotiations with the Respondent's prior counsel, Doug Anderson, regarding the terms of the Separation Agreement.

64. Without discussion, or notice, the Respondent commenced a proceeding in Toronto by way of Statement of Claim alleging inter alia, damages for fraud, fraudulent misrepresentation, breach of trust, unjust enrichment and intentional infliction of emotional distress and punitive, aggravated and exemplary damages.

65. The Statement of Claim was served on the Applicant, personally, on November 4, 2013.

66. The Applicant states and the fact is that the matters at issue as pleaded in the Statement of Claim are the identical matters at issue in the matrimonial dispute between the parties.

67. It is just and appropriate that the Respondent's claim and the Applicant's Application should be heard together, or one after the other in the Bracebridge jurisdiction.

68. Both parties resided in Bracebridge on the date of separation. The properties at issue are both in the District of Muskoka jurisdiction. The subject matter of the assault on the Applicant took place in Bracebridge.

69. The subject matter of the alleged misrepresentation of the Applicant took place either in Sault Ste. Marie, or in Bracebridge.

70. There is no nexus between the matters at issue and Toronto, but for the location of the Respondent's counsel, Joseph Markin, on the Toronto action.

71. It is appropriate that the Court avoid a multiplicity of proceedings and this matter should be heard in

Amended pursuant to Rule 11.02 of the Family Law Rules

Bracebridge.

**Costs:**

72. The Respondent, by his commencement of the claim in Toronto, put the Applicant to unwarranted expense. Further, by his refusal to negotiate a good faith resolution of the matters at issue she has been compelled to commence this court proceeding. The Applicant therefore seeks her costs of the proceeding on a substantial indemnity scale.

*Put a line through any blank space left on this page.*

\_\_\_\_\_  
Date of signature

\_\_\_\_\_  
Signature of applicant

**LAWYER'S CERTIFICATE**

*For divorce cases only*

My name is: Donna Macfarlane

and The Applicant is the applicant's lawyer in this divorce case. I certify that She has complied with the requirements of section 9 of the *Divorce Act*.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Lawyer



For information on accessibility of court services for people with disability-related needs, contact:  
Telephone: 416-326-2220 / 1-800-518-7901 TTY: 416-326-4012 / 1-877-425-0575



*Amended pursuant to Rule 11.017 of the Family Law Rules*