



Court File No. **NEW-S-S-202460**

No.
New Westminster Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SEANN LYNCASTER

PLAINTIFF

AND:

**METRO VANCOUVER KINK SOCIETY, ADRIAN ESTERGAARD, BEVERLY GUNN,
TERRA HUNTER, PAUL JONES, SARA KNAPPE, DAPHNE KOWALCZYK, ERIN
KYLE, VICKY MONTERROSA, ANDREA PAINTER, AND VICTOR SALMON**

DEFENDANTS

NOTICE OF CIVIL CLAIM

(Name and address of each plaintiff)

Seann Lyncaster
4535 Napier St.
Burnaby, BC, V5C 3H4

(Name and address of each defendant)

Metro Vancouver Kink Society
8241 Lakeland Drive
Burnaby BC V5A 2B6

Adrian Estergaard
208 - 1885 Pender St E
Vancouver BC V5L 1W6

Beverly Gunn
5838 Baynes St
Abbotsford BC V4X 1J9

Terra Hunter
2528 Norquay St
Vancouver BC V5R 5Y9

Paul Jones
212 - 8139 121A St
Surrey BC V3W 0Z2

Sara Knappe
8241 Lakeland Dr
Burnaby BC V5A 2B6

Daphne Kowalczyk
208 - 1885 Pender St E
Vancouver BC V5L 1W6

Erin Kyle
4177 Dominion St
Burnaby BC V5G 1C5

Vicky Monterrosa
5825 Fleming St
Vancouver BC V5P 3G4

Andrea Painter
214 - 10157 University Dr
Surrey BC V3T 5L7

Victor Salmon
209 - 7600 Francis Rd
Richmond BC V6Y 1A2

This action has been started by the Plaintiff 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,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, 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

1. The plaintiff Seann Lyncaster has an address for service c/o Hunter Litigation Chambers, 2100 – 1040 West Georgia Street, Vancouver, British Columbia.
2. The defendant Metro Vancouver Kink Society is an organization duly incorporated pursuant to the laws of British Columbia with a registered office of 8241 Lakeland Drive, Burnaby, British Columbia (“MVK”).
3. The defendants Adrian Estergaard, Beverly Gunn, Terra Hunter, Paul Jones, Sara Knappe, Daphne Kowalczyk, Erin Kyle, Vicky Monterrosa, Andrea Painter, and Victor Salmon are, or were at all material times, directors of MVK (the “Directors”).

Background

4. MVK holds itself out as an organization “that holds play, social and educational events for kinky and kink-curious people” in the BDSM (*i.e.*, bondage, discipline, submission, and masochism) community of Metro Vancouver.
5. The plaintiff is an active member of this community, also known as the “kink community”, and has been for many years.
6. The plaintiff’s involvement in the kink community includes hosting events in a rented house for both the Metro Vancouver kink community and related communities.
7. The plaintiff’s events are not MVK events. Both MVK events and the plaintiff’s events historically receive many of the same attendees. As such, the plaintiff is a competitor to MVK.

8. In addition to using the house as an event space, the plaintiff lives in and operates his business in the house. The plaintiff relies upon donations at events to offset the costs of renting the house and hosting events.
9. The plaintiff was, until recently, the Vancouver chapter leader of Master And slaves [*sic*] Together International (“MAST International”).
10. Many or all members of the kink community use aliases when conducting themselves in the kink community, whether in-person or using internet forums.
11. The plaintiff uses the alias “Lord Braven”. The defendant Sara Knappe is the president of MVK and uses the alias “Sara Blaze” or “MsBlaze” [*sic*].
12. The plaintiff is well known to members of the kink and related communities by both his legal name and his alias.
13. The kink community is active on online social networking websites, including FetLife (<https://fetlife.com/>) and Facebook (<https://www.facebook.com/>). FetLife is an online forum for members of the kink community.
14. MVK has “groups” (*i.e.*, forums) on both FetLife and Facebook, entitled “Metro Vancouver Kink (MVK)” and “MVK: Metro Vancouver Kink”, respectively. These groups can be accessed by any member of the public that creates a free account on either website.
15. In or around December 2016, a person using the alias “RopeKittie” posted a statement on the FetLife website that contained several allegations about the plaintiff. These allegations were baseless.

Defamatory statement

16. On or about July 12, 2017, the defendant Sara Knappe (using her alias), on behalf of MVK and/or the Directors, published a statement in the MVK FetLife and Facebook groups, of and concerning the plaintiff (the “First Defamatory Statement”).
17. The First Defamatory Statement declared itself to be an “open letter” and was expressly directed to the plaintiff’s alias.
18. The First Defamatory Statement was defamatory in its entirety, but included the following particulars:

“Open letter to Lord Braven from the MVK Board

Braven,

You’ve been an active member of the Vancouver BDSM community for many years. Many of us have been in your home, or engaged with you at parties. MVK has rented space in your home to host classes. But in light of recent allegations, and particularly your response to them, MVK is terminating its professional relationship with you.

When recent allegations were raised, MVK and other community organizations tried to work with you to address them. Although the original posting contained unsubstantiated claims, in the aftermath, many people came forward with claims that are substantiated, including first person accounts of consent violations, outing, and other serious complaints. Some of these complaints are known to you. Some people choose to remain anonymous, and we respect their wishes.

When confronted with consent violations, you have denied knowledge of the violations, denied being informed of the violation and refused to accept any accountability. You have continued to demonstrate a serious pattern of denial, with no apparent desire or ability to accept any accountability for your own actions. Because of this pattern, MVK will not work with you or recommend you in any professional capacity.

...

The allegations are serious, credible, and numerous

We have heard numerous reports of problems. Rather than a comprehensive list, we will give representative examples of the allegations. Each of these anonymous sources have been known to us for years and have a history of service in the kink community. We have carefully interviewed them and consider their stories to be credible. In each case, the allegation that you haven't seen is similar to but more serious than the one you have seen.

- By your own admission, you outed a former partner as kinky to her family, and broadcast her personal and health information to your email list.
- By your own admission, you invited a minor into your home for a BDSM-related discussion. This put every adult in the space at legal risk and violated each of their consent.
- It is alleged that you negotiated for non-sexual service but pushed for oral sex once the person was in a service headspace.
- It is alleged that your mentoring has perpetuated abusive behaviour by teaching abusive behaviour to your mentorees.
- It is alleged that you are running a script on Fetlife to target young women who are new to kink (or collecting this information by some other means that produces the same results) – reaching out to them at their most vulnerable in order to perpetuate the cycle of “fresh meat” through your doors.
- Individuals, particularly inexperienced young women, are being abused at the parties by both yourself and other attendees.

These are serious violations which represent more than simple misunderstanding or miscommunication.

Your responses have been evasive

Members of the community have asked you both in public and in private to address these concerns. Your responses have not been transparent and have not answered the concerns.

Any path to Restorative Justice (see https://en.wikipedia.org/wiki/Restorative_justice) requires that all parties recognize the issues, admit the problems, and work toward change. We have not seen that in your responses to date. We have seen you make administrative changes to the way you run your parties, but these changes - in particular collecting and holding information on attendees - raise more concerns than they answer because of your history of outing.

What happens now?

MVK is not the kink police, we are a community non-for-profit organization. It is not our place to stop anyone from playing a your home, or with you. But:

- We will not present you or your home as safe for the community;
- We will not rent space in your home;
- We will not allow you to promote your events in our forums;
- We will not allow you to volunteer or teach with us; and
- When asked about you and your events, we will refer people to this letter.

...

Regards,

The board of MVK”

19. On or about August 4, 2017, the defendant Sara Knappe, on behalf of MVK and/or the Directors, read aloud a statement at a so-called town hall meeting, which was transcribed in the meeting minutes posted on MVK’s FetLife group on or about September 5, 2017 (the “Second Defamatory Statement”).
20. The Second Defamatory Statement was defamatory in its entirety, but included the following particulars:

“The Town Hall held in December of last year, was held in response to allegations of a potential predator in our community.

...

The prevalent message that came out of the last town hall was that change was needed. Desperately and immediately. Eight months later, we come together again, so that we can share with you what MVK has spearheaded to date and what we plan to do in the future so that we can minimize the possibility of these issues continuing to happen.

The notably most controversial of these actions taken to date is the Open Letter addressed to a specific individual in question and posted publicly online. This is the first time in MVK’s history that a stand of this nature has been taken and it was not taken lightly. This is arguably the reason that this second Town Hall was eight months in the planning.

Immediately following the Town Hall, we did two things. We first requested a legal opinion regarding the legal implications of having a minor in spaces where BDSM activities are present.

...

The individual who was age 16 and allowed to attend events has spoken out and assures us that she was not “controlled or influenced by the adult”. But the more troubling part of this matter is the follow up to this point, specifically that:

“Allowing attendees under the age of 19 into events could also expose other attendees to potential legal exposure if a complaint was made or if local law enforcement attended any event. In part, this is because other attendees may have obligations under section 14 of the Child, Family and Community Service Act to report to the Ministry of Children and Family Development if they believe a child or youth (anyone under 19) is in need of protection.”

Therefore, while it might have been okay in terms of the Criminal Code, each and every individual sharing space with a minor is potentially exposing themselves to potential legal complaints for failing to report. Both the minor and the individual in question acknowledge that this happened and both state that it was consensual. They did not acknowledge or consider the risk that they non-consensually placed on the other party participants.

...

Our next step was to then make a formal complaint to MAsT International requesting that they review the series of accusations made and weigh in on whether or not they continued to support this individual as a representative of our local MAsT Chapter. We felt the step was important for several reasons.

We felt that given the accusations, some of which this individual admitted to, this individual should not hold a position of authority, moral or otherwise, in our community. Further, this same position of authority was, in our view, one of the ways that this individual was able to perpetrate the very issues that we were grappling with. The investigation itself took several months and we believe they handled it professionally and completely. In addition to taking the evidence we provide them with, they also ask for and received a number of first hand reports directly from the victims. In the end, they revoked the MAsT Chapter. A new Chapter in Vancouver has now been formed under new leadership and is the first of the new support groups that have been formed since the original Town Hall.

Upon confirmation that the Chapter had been revoked, we prepared and forwarded the Open Letter. We find there is enough first hand evidence to support the position taken in the Open Letter. We remain open to Restorative Justice. But we will no longer allow the prevalent Code of Silence to continue when the writing is on the wall.”

21. The First Defamatory Statement and the Second Defamatory Statement (together, the “Defamatory Statements”) are false, malicious, and defamatory of and concerning the plaintiff, impute improper, disreputable and criminal conduct, and tend to cause the plaintiff to be regarded by reasonable persons with hatred, contempt, fear or ridicule.

22. The Defamatory Statements refer to and are understood to refer to the plaintiff. In their natural and ordinary meaning, or in the alternative, by way of innuendo, the Defamatory Statements mean and are understood to mean, *inter alia*, that the plaintiff has allegedly
 - (a) committed and overseen acts of sexual impropriety,
 - (b) committed and overseen acts of criminal conduct, including sexual assault,
 - (c) repeatedly engaged in sexual impropriety and sexual assault as a pattern of conduct,
 - (d) violated the express and/or implied rules governing the kink community,
 - (e) engaged in conduct that ordinary persons would regard as cruel, including repeatedly taken advantage of vulnerable persons,
 - (f) provided a dangerous and predatory environment for kink community events.
23. The Defamatory Statements' words would be understood by reasonable people within, or associated with, the kink community to be referring to the plaintiff.
24. In publishing the Defamatory Statements, MVK and the Directors were actuated by malice toward the plaintiff.
25. The First Defamatory Statement was subsequently republished, both on Facebook and on other websites. These republications were reasonably foreseeable and the natural and probable consequence of the initial publications.
26. The Second Defamatory Statement may also have been subsequently republished and any such republication was reasonably foreseeable and the natural and probable consequence of the initial publication.
27. The publication and republication of the Defamatory Statements have had, *inter alia*, the following consequences:
 - (a) the plaintiff has been shunned and avoided,
 - (b) the character, credit, reputation, and standing of the plaintiff have been seriously injured both in the kink community and generally,
 - (c) attendance at the plaintiff's events has deteriorated, thereby impacting the plaintiff's ability to pay rent in his house, and
 - (d) the plaintiff has suffered and continues to suffer loss and damage.
28. Both prior to and subsequent to the publication of the Defamatory Statements, the defendants made no serious effort to engage with the plaintiff to ascertain the truth – or lack thereof – of the assertions and innuendos therein.

Further harm caused by MVK and its Directors

29. Around the same time as the publication of the Defamatory Statements and as admitted in the Second Defamatory Statement, MVK and/or its Directors made a so-called “formal complaint”, the particulars of which are within the defendants’ knowledge, to MAsT International in an admitted effort to deprive the plaintiff of his position as the MAsT International Vancouver chapter leader.
30. As a result, MAsT International suspended both the plaintiff and the Vancouver chapter.
31. A different chapter has now been established and the plaintiff understands that some of the Directors are now in charge of the new Greater Vancouver chapter.
32. The plaintiff’s character, credit, and reputation have suffered due to the “formal complaint” and he continues to suffer loss and damage.

MVK and its Directors have failed or refused to mitigate the harm

33. On or about September 8, 2017, the plaintiff, through legal counsel, demanded a retraction and apology from MVK and its Directors.
34. On or about September 19, 2017, MVK, through legal counsel, responded to the demand letter and asserted that the Defamatory Statement was subject to common law protections.
35. The Directors did not respond to the demand letter.
36. On or about September 29, 2017, the plaintiff made a second demand for a retraction and apology from MVK, which was also refused.
37. As of the date of this notice of civil claim, the Defamatory Statements have not been retracted nor have MVK and its Directors apologized.
38. The defendants’ failure and refusal to retract, apologize, respond to the plaintiff’s demand (in the case of the Directors personally), or engage with the plaintiff in truth-seeking in any meaningful way exhibits reckless indifference to the truth of the Defamatory Statements and is indicative of actual malice and a lack of good faith.
39. Prior to the Defamatory Statements and the baseless December 2016 “RopeKitteh” allegations that led to it, MVK discussed strategies to shut down the plaintiff and his events at MVK meetings. The Defamatory Statements are the result of that intent and indicative of actual malice and a lack of good faith.

Part 2: RELIEF SOUGHT

40. An injunction restraining MVK and its Directors, their agents, servants, or otherwise, from further writing, printing, broadcasting, or causing to be written, published broadcast, or otherwise publishing the alleged, or any similar, libel.

41. General damages for defamation.
42. Special damages.
43. Aggravated damages.
44. Punitive damages.
45. Interest pursuant to the *Court Order Interest Act*, RSBC, c. 79.
46. Costs.
47. Such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

48. The plaintiff relies on the statutory and common law in regards to defamation.
49. The plaintiff relies on common law principles governing the assessment of damages for defamation.
50. The plaintiff relies on common law and equitable principles governing injunctive relief for defamation.
51. The plaintiff also relies on the *Libel and Slander Act*, RSBC 1996, c. 263.

Plaintiff's address for service: Hunter Litigation Chambers
2100 - 1040 West Georgia Street
Vancouver, BC V6E 4H1

Fax number address for service (if any): 604 647 4554

E-mail address for service (if any): gallen@litigationchambers.com

Place of trial: Vancouver, British Columbia

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

Dated: May 22, 2018



Lawyer for the Plaintiff
Greg Allen
Hunter Litigation Chambers Law Corporation

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.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The plaintiff sues the defendants in defamation.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

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:

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

Part 4:

Court Order Interest Act, RSBC 1996, c. 79.

Libel and Slander Act, RSBC 1996, c. 263.