

CANADA / JUDGMENT

D.K.E. v. Hotel Belmont F&B Ltd.

2025 BCSC 1467

COURT

Supreme Court of British Columbia

DECIDED

30 July 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 1467 D.K.E. v. Hotel Belmont F&B Ltd.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

D.K.E. v. Hotel Belmont F&B Ltd.,

2025 BCSC 1467

Date: 20250730

Docket: S241756

Registry: New Westminster

Between:

D.K.E.

Plaintiff

And

Hotel Belmont F&B Ltd., Pacific Reach Properties Ltd.,

At Home Hospitality Ltd., 0746115 B.C. Ltd., John Doe #1,

John Doe #2 and John Doe #3,

Defendants

Before: The Honourable Madam Justice Sukstorf

Reasons for Judgment

Counsel for the Plaintiff:

J. Mangat

Counsel for Adam Doe and Tom Doe:

M. Magaril

Counsel for Hotel Belmont F&B Ltd., Pacific Reach Properties Ltd., At Home Hospitality Ltd., and 0746115 B.C. Ltd.:

A. Ko

Place and Date of Hearing:

Port Coquitlam, B.C.

June 18, 2025

Place and Date of Judgment:

New Westminster, B.C.

July 30, 2025

Table of Contents

I. introduction.. 3

II. ISSUES. 4

III. SUMMARY OF THE PARTIES' POSITIONS. 4

A. Tom Doe and Adam Doe's Position. 4

B. D.K.E.'s Position. 5

IV. FACTS. 6

STANDING.. 8

V. LEGAL FRAMEWORK.. 9

VI. ANALYSIS. 11

A. Should the Claim be Struck under Rule 5(1)(b) as unnecessary, scandalous, frivolous, or vexatious?. 11

B. Should the Claim be Struck Under Rule 9-5(1)(d) as an Abuse of Process?. 16

VII. CONCLUSION.. 17

I. introduction

- [1] In her Notice of Civil Claim ("NOCC"), D.K.E. alleges that between the evening of January 11, 2020, and the early morning of January 12, 2020, while staying at the Belmont Hotel, she was served alcohol to the point of intoxication and subsequently became unconscious. During this time, she claims that unidentified John Does subjected her to non-consensual sexual activity.
- [2] She brought a claim against the individuals for damages stemming from the sexual assault. Further, she alleges that the owners and operators of the Belmont Hotel are liable for negligence and vicarious liability.
- [3] John Does #1 and #2 have since been identified. On December 24, 2024, they obtained both a sealing order and a court order recognizing them as two of the John Does identified in the NOCC. The court directed that these individuals remain anonymous and be identified as Tom and Adam Doe, pending further order. Neither Tom nor Adam has yet been added as a party to this litigation.
- [4] Tom and Adam deny the allegations made by D.K.E. They acknowledge that some sexual contact occurred; however, they assert that this contact was consensual and that no penile-vaginal penetration took place. They also claim that D.K.E. was a coherent and willing participant in the events that took place.
- [5] An application filed by Tom and Adam Doe is the subject of this decision. Relying on their denials in their affidavits and an excerpt from a police report, they ask this court to strike D.K.E.'s claim in its entirety, in accordance with Rule 9-5 of the Supreme Court Civil Rules, B.C. Reg 168/2009 [Civil Rules]. They argue that D.K.E.'s claim is frivolous, vexatious, and constitutes an abuse of process. D.K.E. opposes their application, asserting that her claim raises serious and contested issues.
- [6] After reviewing the evidence and the submissions, I conclude that Tom and Adam Doe's application should be dismissed for the reasons outlined below.

II. ISSUES

- [7] In deciding whether D.K.E.'s claim should proceed to trial or be struck, I examined the following issues:
- Do Tom and Adam Doe have standing to bring this application?
 - Is the claim unnecessary, scandalous, frivolous, or vexatious?
 - Is the claim an abuse of process?

III. SUMMARY OF THE PARTIES' POSITIONS

A. Tom Doe and Adam Doe's Position

- [8] Tom Doe and Adam Doe, collectively, the applicants, argue that D.K.E.'s claims are contradicted by their sworn statements and a selected excerpt from a 149-page police report in which D.K.E. told the police she was "not raped". The applicants assert that this directly contradicts D.K.E.'s claims, and D.K.E. has failed to provide any evidence to dispute their assertion that the sexual contact was consensual. They contend that proceeding to trial based on D.K.E.'s claim would be unjust to them, given their exculpatory evidence and the fact that they have not yet been formally named as parties.
- [9] They argue that, although they are not yet parties to this litigation, Rule 9-5 permits applications at any stage of proceedings, and, therefore, grants them the right to file an application regardless of their non-party status.
- [10] Although the corporate defendants did not make any oral submissions during this hearing, the court was informed that in a separate, unrelated application filed more than a year ago, the corporate defendants sought leave to add the applicants as third parties. That application is not currently under consideration.
- [11] Along with their request to strike the NOCC, the applicants are also seeking an award of special costs.

B. D.K.E.'s Position

- [12] D.K.E. opposes the application and asserts that her claim establishes a legitimate cause of action. She emphasizes that the allegations of non-consensual sexual activity, alongside her incapacity to consent, support her tort claim. D.K.E. argues that the current application is not only premature but also procedurally flawed, as it seeks to resolve factual matters too early in the process.
- [13] While she acknowledges that she did not file an affidavit directly responding to the court's application, she asserts that the NOCC, coupled with the supplementary evidentiary record, including the police report, medical documentation, and statements from contemporaneous witnesses, supports her claim. She argues that:
- a) Her claim meets the legal threshold for sexual assault;
 - b) The applicants themselves admit to engaging in sexual contact with her;
 - c) She has provided consistent post-incident statements to police and medical personnel which indicate her lack of consent and significant intoxication; and
 - d) There are internal contradictions in the applicants' affidavits and their earlier statements to the police, particularly concerning the level of D.K.E.'s intoxication and the nature of the sexual activity.

- [14] D.K.E argues that the application to strike lacks merit and is improperly framed, and that her failure to submit an affidavit in response to the application should not result in an adverse inference against her NOCC. She emphasizes that the outcome of the claim against Tom and Adam Doe hinges on the issue of consent and, consequently, the credibility of the parties. She argues that these issues can only be assessed at trial, through a full evidentiary record.
- [15] She also submits that her claim is not an abuse of process and that to strike it at this stage would undermine the fair administration of justice, particularly for survivors of sexual assault.
- [16] Alternatively, if the court finds any deficiency in the pleadings, D.K.E seeks leave to amend her claim.
- [17] D.K.E. also opposes any award of special costs.

IV. FACTS

- [18] The following summary of facts is drawn from the documentary record before the Court, including the pleadings, affidavits, exhibits, and other materials filed by the parties. These facts have not been tested by cross-examination or at trial. Accordingly, they do not constitute final findings of fact but are accepted solely to resolve the issues raised by the motion to strike.
- [19] On the dates in question, D.K.E. was a registered guest in Room #107 of the Belmont Hotel, while Tom and Adam Doe, were staying at, or visiting, Room #111.
- [20] On the evening of January 11, 2020, D.K.E. attended a licensed venue on the lowest floor of the Belmont Hotel, called "The Basement". At this venue, she was served and consumed alcohol until she was intoxicated.
- [21] At approximately 11:30 p.m., D.K.E. left the Basement to return to her room. D.K.E asserts that on the way back to her hotel room, she was either invited or pulled into Room #111 by the John Does. There, she consumed further alcohol provided by the John Does. She also asserts that the John Does were drinking alcohol and appeared to be intoxicated and/or under the influence of drugs.
- [22] D.K.E. alleges that, while in Room #111, she lost consciousness. While unconscious, she claims she was subjected to unwanted sexual activity by both Tom and Adam Doe. She claims that she did not consent, and, in any case, that she was too intoxicated to consent to any sexual activity.
- [23] D.K.E. also alleges that her level of intoxication and subsequent memory loss did not align with the amount of alcohol she knowingly consumed.

- [24] D.K.E.'s presence in Room #111 came to the attention of hotel staff after an individual staying in the room contacted security to report a woman in their room who should not have been there. Hotel security then contacted the police.
- [25] When the police arrived, they found D.K.E. nude, unconscious, and very difficult to wake. When Constable Wilson eventually roused her, she appeared heavily intoxicated, disoriented, and unable to explain where she was, who she had been with, or how she had got to Room #111. D.K.E. repeatedly expressed a desire to be left alone so she could return to sleep. When Constable Wilson told her that her friends were worried something might have happened to her, she looked offended and spontaneously stated, "I wasn't raped."
- [26] D.K.E. was unable to dress herself properly. Police took her to the hospital, where, initially, the staff considered her too intoxicated to give consent for a forensic sexual assault examination.
- [27] As her intoxication subsided and she became more aware of her surroundings, she told police that she could not recall what had occurred, but that she believed she may have been sexually assaulted. That belief was informed, in part, by her physical condition and bodily sensations. Medical staff subsequently documented that D.K.E. had twelve minor injuries, including scratches and bruises, which the attending physician described as being consistent with D.K.E. having been "handled roughly."
- [28] D.K.E. claims she experienced a variety of physical and psychological injuries from the incident, including post-traumatic stress disorder, anxiety, depression, insomnia, emotional distress, and an increased vulnerability to future harm.
- [29] The claim against the corporate defendants is grounded in negligence and vicarious liability. D.K.E. alleges that, among other things, the hotel failed to monitor alcohol consumption on its premises, permitted intoxicated guests to remain unsupervised, and contributed to an unsafe environment that enabled sexual violence.
- [30] At the time of filing the NOCC, D.K.E. did not know the names of any of the individual defendants, and, therefore, identified them as "John Does." D.K.E. indicated that on August 29, 2023, her counsel received an unredacted copy of the police report dated January 12, 2020, and that, for the first time, she discovered the identities and names of Tom and Adam Doe.
- [31] On June 24, 2024, the corporate defendants requested permission to add Tom and Adam Doe as third parties in this case. This application has not yet been addressed. In their request to strike the claim, Tom and Adam Doe admit that the delay in adding them as parties is primarily due to their desire to obtain a protective order limiting public access to the file and to have this application heard first.

STANDING

- [32] As a preliminary issue, I must consider whether Tom and Adam Doe have standing to bring an application to strike. The plaintiff's current NOCC names the individual defendants as "John Does." John Doe acts as a procedural placeholder and is used where the identity of alleged actors is initially unknown. This approach is well-established in British Columbia practice and does not render a pleading defective: *Jackson v. Bubela*, 28 D.L.R. (3d) 500, 1972 CanLII 978 (B.C.C.A.).
- [33] Although parties of record most commonly invoke Rule 9-5, the language of Rule 9-5 does not limit its use only to parties. In appropriate circumstances, non-parties with a direct interest in the outcome may bring such applications.
- [34] In this case, I am convinced that Tom and Adam Doe have sufficient standing to bring this application. Although they are not yet officially named as defendants, their identities have been confirmed through the litigation process. They have already appeared before the court and have requested a sealing order and anonymization of their involvement. Furthermore, they were arrested in connection with the underlying sexual assault allegations. They were later released without charges being laid.
- [35] Given these facts, and the pending application by the corporate defendants to formally add Tom and Adam Doe as parties to this litigation, I find that they have a sufficient interest in the proceedings to bring this application to strike.

V. LEGAL FRAMEWORK

- [36] In accordance with Rule 9-5(1)(b) and (d) of the Civil Rules, the applicants ask the court to strike out D.K.E.'s claim. They assert that the claim is unnecessary, scandalous, frivolous or vexatious, or it is otherwise an abuse of the process of the court.
- [37] When an application to strike is brought under Rule 9-5(1)(b) or (d), the Court is permitted--and often required--to consider evidence beyond the pleadings where contextual understanding is necessary to assess whether it is plain and obvious that the claim is deficient. This is because such applications often turn on surrounding circumstances, and the Court must be able to apply the relevant legal standards to the specific factual context: *Krist v. British Columbia*, 2017 BCCA 78 at para. 24.
- [38] Although such evidence may be admissible under subrules (b) and (d), the evidence is only admissible to determine whether it is plain and obvious that the claim ought to be struck: *Huang v. Silvercorp Metals Inc.*, 2016 BCSC 278 at para. 20.

- [39] In assessing whether a pleading should be struck under Rule 9-5(1) the pleadings are to be read generously. The court may evaluate the claim as pleaded and also consider the pleading as it could be reasonably amended: *Nevsum Resources Ltd. v. Araya*, 2020 SCC 5 at para. 143; *British Columbia/Yukon Association of Drug War Survivors v. Abbotsford (City)*, 2015 BCCA 142 at para. 15.
- [40] A pleading may be struck under Rule 9-5(1)(b) if it is unnecessary, scandalous, frivolous or vexatious. A claim is unnecessary or vexatious if it does not advance a claim known in law, does not establish the plaintiff's cause of action, or would serve no useful purpose and would therefore be a waste of the court's time: *Nevsum Resources Ltd.* at paras. 65–66.
- [41] A pleading may also be struck under subrule (b) if the claim is so confusing or unclear that it becomes unnecessary, frivolous, or vexatious; or where the claim is groundless, legally untenable, or brought for an improper purpose.
- [42] As the British Columbia Court of Appeal noted in *Krist*, the analysis under subrule (b) also requires the court to ask whether the claim, taken as pleaded, serves any useful purpose or instead prejudices the trial process by being scandalous, inflammatory, or vexatious.
- [43] Rule 9-5(1)(d) permits the court to dismiss actions which attempt to use the court process for improper purposes. What constitutes an abuse of process will depend on the circumstances of the case, and the party advancing an abuse of process claim bears a heavy onus and must show that the abuse is plain and obvious.
- [44] An abuse of process includes, but is not limited to, where a claim is used oppressively, where it improperly relitigates issues, or where it is advanced for ulterior or improper motives: *Chermen v. Robertson*, 2014 BCSC 1358 at para. 29.
- [45] This subrule empowers courts to prevent proceedings that are "unfair to the point that they are contrary to the interest of justice": *Toronto (City) v. C.U.P.E. Local 79*, 2003 SCC 63 at para. 35.
- [46] Courts should only strike pleadings as an abuse of process in the clearest of cases and should use this power sparingly: *A.M. v. Dr. F*, 2021 BCSC 32 at para. 63; *Strata Plan KAS 1691 v. City of Kamloops*, 2004 BCSC 1231 at para. 20.
- [47] Finally, even where the court identifies deficiencies in a pleading, the appropriate remedy may be to grant leave to amend, provided it is not plain and obvious that the defects are incurable.

VI. ANALYSIS

- [48] D.K.E. alleges a series of events involving alcohol consumption, loss of consciousness, and non-consensual sexual activity. In their own affidavits, Tom and Adam Doe readily admit to sexual contact with D.K.E. D.K.E. argues that these events caused various harms and claims liability against both the individual and corporate defendants based on established legal

principles, including battery, negligence, and vicarious liability. If the allegations are accepted as accurate, they fall within recognized categories of tort and, if proven at trial, could support the relief sought.

[49] For the reasons that follow, I find that D.K.E.'s claim is not unnecessary, scandalous, frivolous, or vexatious, nor does it constitute an abuse of process. I therefore decline to strike the claim.

A. Should the Claim be Struck under Rule 5(1)(b) as unnecessary, scandalous, frivolous, or vexatious?

[50] Tom and Adam Doe argue that the NOCC is frivolous, vexatious, and bound to fail because they have not yet been named as defendants, despite being directly implicated in the pleadings. They point to procedural delays and uncertainty about their status in the proceeding as reasons why the NOCC should be struck. They also assert that, in alignment with D.K.E.'s statement that "I wasn't raped," no sexual assault took place. Consequently, they argue that they would experience unwarranted reputational harm if the claim were allowed to proceed.

[51] I note that while Tom and Adam Doe rely on delay, the other parties informed the court that the delay in adding them as individual defendants was due to their request to have this application heard first. Although this was mentioned in paragraph 28 of their application, their counsel disputed this fact during the hearing. Furthermore, when the court asked whether they consented to have their application to be added as formal parties heard during this hearing, their counsel disagreed. In any case, I find that the applicants cannot use their refusal to be added as defendants as a valid reason to dismiss the claim.

[52] The second argument of the applicants relies on the police report completed after the incident, whereby D.K.E said, "I wasn't raped." Tom and Adam Doe argue that the police report contains contemporaneous notes that capture comments from the plaintiff, which fully corroborate their version of events and will inevitably lead to the dismissal of the action.

[53] They assert that, based on D.K.E.'s statement, her claim is frivolous, vexatious, and unlikely to succeed. They contend that going to trial would waste court and public resources, as D.K.E allegedly denied being raped.

[54] I find that Tom and Adam Doe selectively rely on a few isolated sentences from a 149-page police report. They assert those excerpts are admissible under a principled hearsay exception, yet, when the court requested the full report, they claimed they did not have access to it, a claim that, under repeated questioning, proved not to be entirely accurate.

- [55] At the same time, they objected to D.K.E.'s reliance on the same report. This inconsistent approach--relying on excerpts when favourable, disclaiming knowledge when inconvenient, and opposing the opposing party's use of the same material--undermines the reliability of their position. It also illustrates why selective reliance on evidentiary material, particularly in the context of a motion to strike, risks distorting the overall context in which the pleadings are to be assessed.
- [56] Tom and Adam Doe also argue that D.K.E.'s claim is likely to fail because she did not submit a responding affidavit after they filed their application to strike. They assert that, under subrules (b) and (d), the court requires evidence, and in the absence of a contrary position, their uncontradicted evidence must be accepted as truthful.
- [57] This argument incorrectly interprets the purpose of the evidentiary requirements under Rule 9-5(1)(b) and (d). The evidence admitted during a motion to strike applications is not admitted for proving the truth of its contents, but to provide context for the legal arguments before the court. Its role is limited to helping the court determine whether the claim is, on its face, unnecessary, scandalous, frivolous, or vexatious.
- [58] The onus also rests squarely with the applicants to show that it is plain and obvious that D.K.E.'s claim cannot succeed. Tom and Adam Does' evidence is admissible only for that limited purpose. The absence of a responding affidavit does not automatically nullify or defeat the contested allegations in the NOCC, particularly where credibility is at issue.
- [59] D.K.E. also filed an application response. This response provided additional, and relevant, portions of the police report. These additional excerpts illustrate why selective reliance on isolated excerpts risks distorting the evidentiary context.
- [60] A short summary of other relevant details in the police report is as follows:
- a) In the early morning hours of January 12, 2020, Constable Wilson of the Vancouver Police Department was dispatched to Room #111 of the Belmont Hotel. Upon entering, he found D.K.E. undressed, lying on her left side on the bed, partially covered with a sheet and duvet, and unresponsive. Several pieces of clothing were scattered around the room, and a bra lay on the floor beside the bed. Fluid and or blood stains were also observed on the bed sheets.
 - b) Constable Wilson attempted to rouse D.K.E., who eventually awoke with difficulty. She appeared heavily intoxicated, disoriented, and struggled to answer basic questions. She repeatedly expressed a desire to be left alone and to return to sleep.
 - c) When informed that her friends were concerned that something may have happened to her, she appeared offended and spontaneously stated, "I wasn't raped." Despite that comment, Constable Wilson observed that D.K.E. remained confused and unable to respond appropriately to questions. Given D.K.E.'s level of intoxication, disorientation, and the overall circumstances in which she was found, Constable Wilson believed she may have been assaulted and, therefore, requested Emergency Health Services ("EHS").

- d) When paramedics arrived, D.K.E. initially resisted going to the hospital and said she did not want to go. Ultimately, she was transported by EHS to Vancouver General Hospital for further assessment.
 - e) At the hospital, medical staff initially decided that D.K.E. was so intoxicated that she was unable to provide informed consent for a Sexual Assault Nurse Examiner ("SANE") exam. Once she sobered, the SANE examination proceeded. During this process, D.K.E. gave a second statement to Constable Sherry, indicating that she had no recollection of engaging in sexual activity, had not consented to any such activity, and felt as though she may have been raped based on the physical sensations in her genital area.
 - f) The SANE exam revealed twelve minor injuries, including bruises and scratches. The examining doctor reported that D.K.E. appeared to have been "handled roughly." Although no visible genital injury was found, the doctor noted that this did not rule out the use of force.
 - g) On January 13, 2020, the plaintiff provided a further statement to Detectives Jones and Gauthier. She repeated that she had limited memory of the events but confirmed that she would not have consented to sexual activity and believed she had been raped. She also reported bruising and scratches on her body that she could not explain, and said she felt she had been abused.
- [61] Although different evidentiary rules apply to the subrules under Rule 9-5(1), Tom and Adam Doe are required to file evidence to support their motion to strike under both subrules (b) and (d). I reiterate that evidence is only admissible to determine whether it is plain and obvious that the claim ought to be struck, and that the burden of proving that the claim ought to be struck rests with Tom and Adam.
- [62] Considering the entire context of the police report and the other evidence before me, I am unwilling to find that D.K.E.'s statement that "she wasn't raped" automatically renders her claims unnecessary, scandalous, frivolous, vexatious, or bound to fail.
- [63] A pleading is unnecessary or vexatious if it does not go to establishing the plaintiff's cause of action or that do not advance a cause of action known to law: *Citizens for Foreign Aid Reform Inc. v. Canadian Jewish Congress*, 36 C.P.C. (4th) 266, 1999 CanLII 5860 (B.C.S.C.) at para. 47.
- [64] In the present case, D.K.E. has advanced a claim grounded in allegations of non-consensual sexual contact, intoxication, and her incapacity to consent. The events are alleged to have occurred within a factual matrix that includes the service of alcohol at a licensed venue and a subsequent police investigation. While the allegations are serious, and contested by Tom and Adam Doe, they are neither gratuitous nor scandalous in the legal sense. The pleadings are detailed and identify material facts that, if proven, could support the causes of action pleaded.

[65] The NOCC is not bereft of legal merit, nor is it manifestly implausible. It also cannot be said that it is so clearly unsustainable as to meet the high threshold to dismiss an action under Rule 9-5(1)(b). Moreover, I have no evidence before me to suggest that D.K.E. brought this claim for an improper collateral purpose or to burden Tom and Adam Doe unnecessarily. There is also no evidence before me to show that the pleading is frivolous or vexatious within the meaning of the Civil Rules.

[66] The purpose of Rule 9-5 is to screen out legally untenable claims, not resolve factual disputes. Where the core issue turns on consent, intoxication, and credibility, those matters must be resolved at trial. When the core of a claim involves consent, intoxication, or the credibility of the parties, as it does here, those issues are best examined with a full evidentiary record at trial, not determined summarily on affidavit evidence alone.

[67] Given the above, I find that D.K.E.'s claim is not unnecessary, scandalous, frivolous or vexatious, and I decline to strike the pleading under Rule 9-5(1)(b).

B. Should the Claim be Struck Under Rule 9-5(1)(d) as an Abuse of Process?

[68] As noted, Tom and Adam Doe rely heavily on selected excerpts from a 149-page police report, which they characterize as uncontradicted and highly reliable evidence that no sexual assault took place.

[69] They argue that allowing D.K.E.'s claim to proceed would misuse the court's process. They describe themselves as reputable young men who are being unfairly subjected to the stigma of a baseless allegation. They contend that the NOCC is demonstrably false, and, in their view, proceeding with the action would cause unfairness and undermine public confidence in the justice system.

[70] Under Rule 9-5(1)(d), the burden lies with the applicants to show that the action was brought for an improper purpose or that permitting it to proceed would be so unfair as to offend the court's sense of justice. The court's task on such a motion is not to determine the truth of the allegations or weigh competing evidence. The task is to assess whether the claim, viewed broadly and generously, discloses a reasonable cause of action.

[71] A claim will only be dismissed under Rule 9-5(1)(d) in the clearest of cases. The evidentiary record advanced by Tom and Adam Doe does not meet the high threshold required. Their selective reliance on isolated passages from the police report--while refusing to produce the full document and objecting to its broader use by the plaintiff--is troubling. This inconsistent and piecemeal approach undermines the integrity of the process and risks distorting the evidentiary context. It is incompatible with the fair and balanced adjudication required by this Court.

- [72] After considering all the evidence, and the submissions of counsel, I do not accept that permitting this action to proceed constitutes an abuse of process. There is no evidence that the claim was brought for an improper or collateral purpose. I reiterate that the NOCC sets out serious allegations involving intoxication, loss of consciousness, and non-consensual sexual contact--allegations which, if proven, support a recognized cause of action.
- [73] Tom and Adam Doe also assert that failing to strike D.K.E.'s action will undermine public confidence in the justice system. I disagree. While I am refusing to strike D.K.E.'s motion, Tom and Adam are still entitled to a fair and public trial, where they will have the opportunity to present their version of events to the court.
- [74] In sum, I find that the central issues in this case turn on findings of credibility. These contested facts before the court cannot be resolved on an application to strike. These matters require a full evidentiary hearing.

VII. CONCLUSION

- [75] Tom and Adam Doe have not met the burden under Rules 9-5(1)(b) and (d), and I decline to strike the pleading. Their application is dismissed.
- [76] If the parties are unable to agree on costs, they may make written submissions to the court, within 14 days of the date of this judgment. Any reply must be filed within seven days thereafter.
- [77] If no submissions are received, D.K.E. is entitled to the costs of the application on the ordinary scale.

"Sukstorf J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/14/2025BCSC1467.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/d-k-e-v-hotel-belmont-f-and-b-ltd-2025>

Prepared on 28 October 2026 · Esheria