

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**SUAAD HAGI MOHAMUD, MOHAMED KATI
ASBSCIR HUSSEIN by his Litigation Guardian Suaad Hagi Mohamud,
MOHAMUD OSMAN and ASIA WARSAME**

Plaintiffs

-and-

**LAWRENCE CANNON, LILIANE KHADOUR, ROSS HYNES,
DARRYL HUARD, PETER VAN LOAN, ANDREW JENKINS,
JASON KENNEY, JOHN DOE, JANE DOE and
THE ATTORNEY GENERAL OF CANADA**

Defendants

NOTICE OF ACTION

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer or, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States or America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

IF YOU PAY THE PLAINTIFFS' CLAIM AND \$2,000.00 for costs, within the time for service and filing your Statement of Defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiffs' claim and \$400.00 for costs and have the costs assessed by the court.

Date: August 21, 2009

Issued by
Local Registrar
(Mr. Brenton)

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393 University Avenue, 10th Floor
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CLAIM

1. The plaintiff, Suaad Hagi Mohamud, claims:
 - a) General damages in the amount of \$1,000,000.00;
 - b) Special damages in a sum to be disclosed before trial;
 - c) Aggravated and/or exemplary damages in the amount of \$500,000.00;
 - d) Punitive damages in the amount of \$500,000.00;
 - e) Damages pursuant to s. 24(1) of *the Canadian Charter of Rights and Freedoms*;
 - f) Pre and post judgment interest pursuant to sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. 43;
 - g) Her costs of this action on a substantial indemnity basis, together with Goods and Services Tax payable pursuant to the *Excise Act*; and
 - h) Such further and other relief as this Honourable Court deems just.

2. The plaintiff, Mohamed Kati Asbscir Hussein, claims:
 - (a) General Damages in the amount of \$200,000.00;
 - (b) Special damages in a sum to be disclosed before trial;
 - (c) Aggravated, exemplary and/or punitive damages in the amount of \$100,000.00;
 - (d) Damages pursuant to the *Family Law Act*, R.S.O. 1990, c. F.3 in the amount of \$100,000.00;
 - (e) Pre and post judgment interest pursuant to sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c.C. 43;
 - (f) His costs of this action on a substantial indemnity basis, together with Goods and Services Tax payable pursuant to the *Excise Act*; and
 - (g) Such further and other relief as this Honourable Court deems just.

3. The plaintiffs, Mohamud Osman and Asia Warsame each claim:
 - (a) Damages pursuant to the *Family Law Act*, R.S.O. 1990, c. F.3 in the amount of \$100,000.00;
 - (b) Pre and post judgment interest pursuant to sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c.C. 43;
 - (c) Their costs of this action on a substantial indemnity basis, together with Goods and Services Tax payable pursuant to the *Excise Act*; and
 - (d) Such further and other relief as this Honourable Court deems just.

4. Suaad Hagi Mohamud brings this action against the Government defendants flowing from their callous and reckless treatment of her while she was abroad. As a direct result of the defendants' actions, Ms. Mohamud was robbed of her identity, denied her rights as a Canadian citizen and abandoned to the whims of Kenyan authorities for three months. Her twelve year old son, Mohamed Kati Asbscir Hussein, lost the care of his mother and suffered the shock and trauma of not knowing when, if ever, his mother would return home to him. The plaintiffs, Ms. Mohamud and her family, claim damages for defamation, malicious prosecution, negligent investigation, negligence, misfeasance in public office, nervous shock and violations of sections 6, 7, 9, 11(d) and 12 of the *Canadian Charter of Rights and Freedoms* with respect to the defendants' wrongful conduct in denying Suaad Hagi Mohamud her citizenship and her identity.

5. On or about May 21, 2009, Suaad Hagi Mohamud presented her valid Canadian passport to airline officials at Jomo Kenyatta International Airport to embark on a return flight to Toronto. The airline officials and Kenyan authorities questioned the validity of Ms. Mohamud's passport.

6. Ms. Mohamud sought the assistance of officials from the Canadian High Commission in Kenya to assist her in verifying her identity and the validity of her passport. She co-operated fully with Canadian officials, producing, among other things, twelve pieces of identification, photographs of her in Toronto, and dry cleaning receipts from establishments in Toronto. Suaad offered to provide fingerprints to these officials, and produced names and contact information for numerous individuals in Canada for the purposes of confirming her identity.
7. Rather than render Ms. Mohamud the assistance that she was entitled to receive at law, the defendant Liliane Khadour, the Vice-Consul at the High Commission (hereafter "Khadour"), delivered a false and defamatory letter to Kenyan officials stating:

Please be advised that we have carried out conclusive investigations including an interview and have confirmed that the person brought to the Canadian High Commission on suspicion of being an imposter is not the rightful holder of the aforementioned Canadian passport... As requested, the Canadian High Commission is releasing the passport to your office for the purposes of prosecution regarding the improper use of the passport by a person other than the rightful holder... With best regards and appreciation for your ongoing cooperation...

Khadour was directed and/or assisted in this regard by the defendant Ross Hynes, the Canadian High Commissioner for Kenya (hereafter "Hynes"), and Darryl Huard, the Second Secretary (Immigration) at the High Commission (hereafter "Huard").

8. Khadour falsely implied that Ms. Mohamud was dishonest, had committed criminal misconduct, and that she was not who she claimed to be. Khadour made the statement knowing that it was false and with the intention of harming Ms. Mohamud's reputation. Alternatively, Khadour made the statement in circumstances where she ought to have known it was false.

9. Prior to issuing the aforementioned false and defamatory letter, Khadour, Hynes and Huard deliberately and/or negligently failed to conduct any form of competent investigation of Ms. Mohamud's identity. As a result of the tortious conduct of these defendants, Suaad was imprisoned for nine days under harsh and demeaning conditions in Langata Prison, prosecuted for serious criminal offences in Kenya for three months, and exposed to possible deportation to Somalia, a failed state with an appalling record of human rights abuses against women. Khadour, Hynes and Huard knew, or ought to have known, that the letter would result in Ms. Mohamud's imprisonment, prosecution and possible deportation.
10. Between May 21 and approximately August 14, 2009, Khadour, Hynes and Huard intentionally and/or negligently refrained from correcting their false and defamatory letter to Kenyan officials, or properly re-investigating Ms. Mohamud's identity. During this time, these defendants failed to render any consular assistance to Suaad, or to co-operate in providing information to her family or her legal counsel.
11. In and around June 2009, the defendant Lawrence Cannon (hereafter "Cannon") became aware of Ms. Mohamud's circumstances and the misconduct of Canadian officials in Kenya. This defendant intentionally and/or negligently failed to direct officials from the Department of Foreign Affairs to conduct a competent investigation of Ms. Mohamud's case, knowing that such failure would result in her continued prosecution and possible deportation to Somalia. On July 24, 2009 Lawrence Cannon libelled Ms. Mohamud by stating the following to reporters:

The individual has to be straightforward, has to let us know whether or not she is a Canadian citizen. She's saying so, but there is no tangible proof to the effect. All Canadians who hold passports generally have a picture that is identical in their passport to what they claim to be.

Cannon's statement was defamatory. Cannon falsely implied that Ms. Mohamud was dishonest, had committed criminal misconduct, and that she was not who she claimed to be. Cannon made the statement knowing that it was false and with the intention of harming Ms. Mohamud's reputation and concealing the misconduct of Canadian officials.

12. In and around June 2009, the defendant Andrew Jenkins (hereafter "Jenkins") was directed to investigate Ms. Mohamud's identity in his capacity as an investigator with the Canada Border Services Agency (hereafter "CBSA"). This defendant knew or ought to have known that Ms. Mohamud's passport was valid and that the initial investigation by Canadian officials was flawed. Jenkins failed to conduct a competent and timely investigation of Ms. Mohamud's circumstances, with the foreseeable consequence that Ms. Mohamud's prosecution in Kenya was unduly prolonged. The defendant Peter Van Loan, the Minister of Public Safety with responsibility for CBSA, became personally knowledgeable of the misconduct of officials within his department and is responsible for failing to take adequate steps to effect Ms. Mohamud's repatriation.

13. In and around June 2009, the defendant Jason Kenney, the Minister of Citizenship and Immigration became personally knowledgeable of the misconduct of officials within the Ministry of Citizenship and Immigration concerning Suaad, and is responsible for failing to take adequate steps to effect Ms. Mohamud's repatriation.

14. As a result of the defendants' misconduct the plaintiffs suffered severe damages, including *inter alia* loss of reputation, physical and psychological injuries, mental distress, loss of income

and special damages. The *Family Law Act* plaintiffs suffered pecuniary loss as well as the loss of Ms. Mohamud's care, guidance and companionship. The plaintiffs further seek their costs on a solicitor client basis, as well as pre- and post-judgment interest.

Date of Issue: August 21, 2009

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CV-21-38510

SUAAD HAGI MOHAMUD et al
Plaintiffs

LAWRENCE CANNON et al.
Defendants

Court File No:

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

NOTICE OF ACTION

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