

Peterborough

Small Claims Court / *Cour des petites créances de*

SC 23 079 D1

Claim No. / *N° de la demande*

BETWEEN / ENTRE

KB Insulators Ltd.

Plaintiff(s) / *Demandeur(s)/demanderesse(s)*

and / et

Russell Lane

Defendant(s) / *Défendeur(s)/défenderesse(s)*

Representative of the plaintiff(s): **Matthew Thompson**

Représentant du demandeur :

Representative of the defendant(s): **Aaron Rousseau**

Représentant du défendeur :

Event type: **Motion**

Type d'affaire :

On **August 26**, 20 **24**, a hearing was held in the above matter and the following order was made:
*Le **August 26**, 20 **24**, une audience a eu lieu concernant l'affaire susmentionnée, et l'ordonnance suivante a été rendue :*

The Plaintiff by Defendant's Claim, KB Insulators Ltd. (herein "KB") brought a claim in this Court against Russell Lane (herein "Lane"), for contribution and indemnity under the Negligence Act relating to an alleged breach of trust by a former employee.

The original claim by the Plaintiff, Prudhomme, against KB is for unpaid invoices. KB has also brought a Superior Court claim against Lane and six other defendants for a wide range of causes of action, again relating to an alleged breach of trust. Prudhomme is not a party to the Superior Court proceeding.

Counsel for Lane argues that KB's claim against Lane is an abuse of process and has brought this motion in this Court to strike same.

Counsel for KB argues that the claim in this Court was simply in response to being sued by Prudhomme and that they have not claimed contribution and indemnity in the Superior Court action. He further argues that this is not a case where KB brought two separate claims in order to apply pressure or circumvent the Rules.

While there is some overlap in the factual contentions, that does not necessarily translate to a duplication of proceedings.

When determining whether or not a proceeding constitutes an abuse of process, it is paramount to ensure justice and equity for all parties. If KB's claim is struck, there is a much greater prejudice to KB than there is to Lane if it is not.

Counsel for Lane argued that allowing the KB claim to proceed will potentially result in inconsistent findings in the two Courts. The Court is not convinced that this is the case as the Superior Court would certainly be made aware of any decision in this Court.

Having said that, the best way to protect from inconsistent findings would be to consolidate the actions or have them heard together.

While this Court does not have the jurisdiction to do that, this Court has been advised that a date has been obtained in the Superior Court for a motion requesting exactly this.

Accordingly, this Court orders that the KB claim be stayed pending the outcome of the Superior Court motion. If the motion is unsuccessful, this claim may proceed in this Court.

September 3, 2024



Signature of judge / *Signature du juge*
Deputy Judge Kristen Bucci