

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

**CHATHAM-KENT CHILDREN'S SERVICES
and ANDREA WATHY**

Moving Parties

- and -

DAVID FLOOK

Responding Party

NOTICE OF MOTION

THE MOVING PARTIES will make a motion to a judge on Tuesday,
September 27, 2011 at 10:00 a.m., or as soon after that time as the motion can be heard,
at the Chatham Court House, 425 Grand Avenue West, Chatham, Ontario, N7M 6M8.

THE MOTION IS FOR:

- a. An Order abridging the time for service of this motion;
- b. An Order compelling the Responding Party, David Flook, to
remove, delete and/or expunge any and all libelous or defamatory
statements, as against the Moving Parties, from the internet sites
referenced as <http://www.notalldadsaredeadbeats.com> and
www.facebook.com/#!/NADADS;

- c. An Order for an interlocutory injunction restraining the Responding Party, David Flook, or any person acting under the direction of the Responding Party, David Flook, from broadcasting, posting, issuing or in any way disseminating libelous or defamatory statements regarding the Moving Parties or any employee(s) of the Moving Party, Chatham-Kent Children's Services until trial or final disposition of this action;
- d. Costs of this motion;
- e. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

- a. The Responding Party, David Flook, has broadcasted and continues to broadcast defamatory and libellous statements regarding the Moving Parties on internet sites referenced as <http://www.notalldadsaredeadbeats.com> and www.facebook.com/#!/NADADS, and organized a demonstration where similar statements were repeated;
- b. The Moving Parties intend to commence an action against the Responding Party for damages and a permanent injunction restraining the Responding Party from broadcasting or making any further defamatory and/or libellous statements;

- c. The words and comments made by the Responding Party or hosted on the internet sites referenced as <http://www.notalldadsaredeadbeats.com> and www.facebook.com/#!/NADADS are defamatory and cannot be justified;
- d. The Responding Party was served with notices on July 7, 2011 and August 3, 2011 informing him that his statements are defamatory and libellous and requesting that such statements be removed from the subject internet sites;
- e. The Responding Party has failed and/or refused to delete the defamatory and libellous statements, despite the Moving Parties' request in the aforementioned notices;
- f. The Responding Party organized a public demonstration where similar defamatory and libellous statements were displayed and repeated;
- g. The Moving Parties will suffer irreparable harm not compensable by monetary damages if the relief requested is not granted;
- h. The balance of convenience favours granting the injunction;
- i. Rules 3 and 40 of the *Rules of Civil Procedure*;
- j. Section 101 of the *Courts of Justice Act*;
- k. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a. Affidavit of Michael Stephens and exhibits attached thereto;
- b. Affidavit of Jay Lockley and exhibits attached thereto;
- c. Such further and other evidence as counsel may advise and this

Honourable Court may permit.

Date: September 8, 2011

GEORGE W. KING

(LSUC #22322J)

McTague Law Firm LLP

Barristers and Solicitors

455 Pelissier Street

Windsor, Ontario N9A 6Z9

Telephone: (519) 255-4300

Fax No.: (519) 255-4360

LAWYER FOR THE MOVING PARTIES

TO: DAVID FLOOK
276 Merritt Avenue
Apartment #310
Chatham, Ontario
N7M 3G1

Court File No.

CHATHAM-KENT CHILDREN'S SERVICES and ANDREA WATHY

v.

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SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT CHATHAM

NOTICE OF MOTION

McTAGUE LAW FIRM
Barristers and Solicitors
455 Pelissier Street
Windsor, Ontario
N9A 6Z9

GEORGE W. KING LSUC# 22322J
Phone: (519) 255-4322
Fax: (519) 255-4360

Solicitors for the Plaintiffs, Chatham-Kent
Children's Services and Andrea Wathy