

Civil Procedure  
Law 225

Fall Term 2015

**Assignment No. 2**

**Due:**

**Monday, November 30, 2015 – no later than 2:30pm.**

**Assignment:**

Draft a draft Notice of Motion, draft Affidavit and draft Order.

Your source of information are the notes of the first interview with the client, a more recent interview, and a Memo in the file.

For your name and law firm, use the following:

Lion, DeLay LLP  
Barristers and Solicitors  
128 Union Street  
Kingston, ON K7N 3L6

Lawyer Name [Name of Your Choice]  
LSUC No.#### [use your student ID number]

Tel: (613) 123-4567  
Fax: (613) 321-7654

Make up the name of and contact details for opposing counsel.

If working in pairs, both students should adopt fictitious lawyer names (same firm though) and provide both Student ID numbers.

For the address of the court, use:

77 Court Street  
Kingston, ON K7L 2N4

For the Court File No. use CV-0652015-64

## Interview Notes

September 28/15

45 minutes with client

Client:

JOHN RAINWATER

6675 Union Street

Kingston, Ontario

K7L 4Y7

Tel. 613 548 3730

note to file: identification produced and copied; should be with reception.

- client is a PhD student in mathematics at Queens. Teaches both at Queens and RMC on a contract basis.
- Common law spouse, Allegra Coleman, and two children age 4 and 2.
- loaned his house to a friend when client went on vacation for a week: left on August 12/15. Returned on Aug 19/15. Friend said he would look after house. Thought doing friend a favour.
- friend: G.W. Peck ("peckster" is how client kept referring to him, weird). Also PhD student in math. Works as a financial analyst in own business. Not

sure of name. Thinks the business is Internet-based and Peck does analysis for banks.

- HUGE amount of damage to the house — garbage everywhere, broken walls, broken plumbing fixtures etc, see pictures. In process of being HAZMAT cleaned.
- Neighbours say that there were huge parties at night. Police called. Tried to reach client but didn't know his cell number or Allegra's number. Very frustrated and angry neighbours. Client afraid that they will sue him for any damage to their yards, etc.
- Client says that there were Facebook posts from Peck and his friends advertising an open party, now taken down. Peck blocked him on FB.
- Client says that Peck is a bit of nerd and may have just been taken advantage of by someone else, but really doesn't know him that well
- Insurance claim filed but agent said unlikely that insurance company will pay as client did not have coverage for house being left in custody of someone else. Deliberate damage outside policy as well. Client will probably have to pay personally.
- Client has had initial estimate to repair damage — at least \$150,000
- Client will get and provide written estimates from at least two potential repair companies

- Peck avoiding client; has not returned emails, texts, or calls.
- Peck lived in student housing at university (Harkness Hall) this summer and last year but no one that client knows has seen him in the last month.
- Client says he knows that Peck is still registered for his program and pretty sure still working as a TA at Queens. Unlikely that he would not keep up with his research or neglect his teaching — ambitious.
- Not sure where Peck lives when not in school; client thinks he's from Toronto. Client pretty sure Peck had planned to be in Harkness Hall again for this academic year.

Explained legal fees, disbursements, and costs. Written retainer completed.

(photos of client scanned and reproduced on next page)



## Interview Notes

November 5/15

30 minutes with client

- has spoken with the neighbours about what they saw
- one neighbour told him that he saw people coming and going from the house and even has a recording on his computer from a security camera on his property that shows some of the people
- client asked him to come in and talk to us — "no way", doesn't want to get involved at all, etc — did show the client the recording and he thinks he recognizes some of the people
- Client surprised that neighbour doesn't want to help
- Neighbour:

Michael Overs  
6677 Union Street  
Kingston, Ontario  
K7L 4Y7  
Tel. 613 549 5420

**LION, DELAY LLP  
BARRISTERS AND SOLICITORS**

TO: Associate  
FROM: Litigation Group  
DATE: November 5, 2015

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The client came in today to review progress on this file. Evidently a neighbour witnessed the various incidents and has some sort of security camera recording (see interview notes). I'd like to get that recording please. The neighbour isn't cooperative so let's just move ahead with a motion. Please draft a Notice of Motion, affidavit to be sworn by the client in support, and a draft Order to get us a copy of the recording. Please drop off the draft documents for review by Monday November 30 at 2:30 pm.