



Small Claims Court Case Study

The E-Mail

Just before his Small Claims Court trial began at 10 a.m. on Tuesday December 7, 2014, Paul Singh (lawyer for the Defendant) reviewed the evidence brief prepared by Rhonda Milburn, the lawyer on the opposing side (until she recently withdrew). He discovered a printout of a confidential e-mail that Rhonda sent to her client's new lawyer, referring to her former client as a con man. Paul didn't know how to proceed.

The Lawyer

Paul Singh graduated from the University of Saskatchewan, College of Law in 2012. After articling and working at a large firm for two years, he opened his own practice in September of 2014. He spent the majority of his time representing clients in Small Claims Court and the Office of Residential Tenancies.

The Defendant

The Defendant, Joan Klopko, hired Tony Cameron as a contractor to renovate her house. She agreed to pay him a deposit of \$5,000 and two \$5,000 installments for the work, which was to be completed by the end of July 2013. She gave him a \$5,000 deposit. When only half the work had been completed by December 2013, she fired Tony and paid another contractor to finish the job. Tony sued Joan for \$10,000, the amount that he claimed she owed him for the work he did.

The Plaintiff's Former Lawyer

Rhonda Milburn practised as a lawyer for over ten years. She represented clients on a wide variety of matters in Small Claims Court. Tony retained her to act for him in a number of lawsuits he brought against homeowners for non-payment. At their first meeting, Rhonda suspected that Tony would be a difficult client. Her suspicions were quickly confirmed when he began calling her several times a day asking for updates on his matters. Several of the claims he asked her to bring were frivolous ones, and when she tried to explain why she could not represent him on those matters, he would become enraged. He never paid the full amount of her invoices, and was always late in his payments. When he did not pay her for her work on the Klopko file, she withdrew from representation. She closed the file and sent the evidence brief she had prepared in anticipation of the trial to the lawyer for the Defendant, Paul Singh. The brief contained a printed copy of an e-mail that Rhonda sent to the lawyer Tony retained when Rhonda withdrew. In the e-mail, she referred to Tony as a con man, who manipulated homeowners into hiring him just to get their deposit, started the work but did not complete it, and then sued them for the balance of the contract.

Conclusion

A month before the trial, Paul and Rhonda agreed that they would submit a joint evidence brief and Rhonda agreed to assemble it. Paul was surprised to find the printout of the e-mail in the brief. He had to find an ethical way to deal with the note that would not compromise his duty to his client or to the tribunal.