

AMENDED THIS Nov 15 200 PURSUANT TO  
MODIFIE CE CONFORMEMENT A

RÙLE/LA RÈGLE 26.02 ( 13 )

THE ORDER OF \_\_\_\_\_  
L'ORDONNANCE DU \_\_\_\_\_  
DATED / FAIT LE \_\_\_\_\_

Court file no.99-CV-163652

REGISTRAR \_\_\_\_\_  
SUPERIOR COURT OF JUSTICE  
GREFFIER \_\_\_\_\_  
COUR SUPÉRIEURE DE JUSTICE

ONTARIO COURT (GENERAL DIVISION)

**BETWEEN:**

**ALANNAH MYLES**

**PLAINTIFF**

- and -

**SOUTHAM INC., THE NATIONAL POST COMPANY,  
FINBARR O'REILLY, DONALD BABICK and  
KENNETH WHYTE**

**DEFENDANTS**

**AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANTS

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiff(s). 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 plaintiff(s) lawyer(s) or, where the plaintiff(s) do(es) not have a lawyer, serve it on the plaintiff(s), and file it, with proof of service, 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 of 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 in 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.

Date:

February 10, 1999

Issued By:

*J. J. Quindarat*  
Local Registrar

TO:

Southam Inc.  
1450 Don Mills Road  
Don Mills, Ontario  
M3B 2X7

Address of Court office:  
393 University Avenue  
Toronto, Ontario

AND TO:

The National Post Company  
300-1450 Don Mills Road  
Don Mills, Ontario  
M3B 3R5

AND TO:

Finbarr O'Reilly  
c/o 300-1450 Don Mills Road  
Don Mills, Ontario  
M3B 3R5

AND TO:

Donald Babick  
c/o 300-1450 Don Mills Road  
Don Mills, Ontario  
M3B 3R5

AND TO:

Kenneth Whyte  
c/o 300-1450 Don Mills Road  
Don Mills, Ontario  
M3B 3R5

## CLAIM

1. The Plaintiff claims:
  - (a) general damages in the amount of \$5,000,000.00
  - (b) punitive, exemplary and aggravated damages in the amount of \$4,000,000.00;
  - (c) interest from the date that notice was given to the defendants until Judgment pursuant to the *Courts of Justice Act*, R.S.O. 1990, c.C-43;
  - (d) the costs of this action on a solicitor and client basis;
  - (e) such further and other relief as this Honourable Court deems just.
  
2. The plaintiff is an individual who resides in the City of Etobicoke in the Municipality of Metropolitan Toronto. The plaintiff is a *Juno* and *Grammy* award-winning Canadian music recording artist whose recordings have sold in excess of eight million (8,000,000) units worldwide.
  
3. The defendants, Southam Inc. and The National Post Company, are corporations incorporated in accordance with the laws of Canada which publish a national daily newspaper circulated throughout Canada known as the *National Post*.
  
4. The defendant, Donald Babick ("Babick"), is the publisher of the *National Post*.
  
5. The defendant, Finbarr O'Reilly ("O'Reilly"), is employed as a reporter for the *National Post*.
  
6. The defendant, Kenneth Whyte ("Whyte"), is employed as the editor-in-chief of the *National Post*.

7. On Tuesday, December 22, 1998, an article was published in the *National Post* which was entitled "The best and worst of Alannah Myles". The article was written by the defendant, O'Reilly. The article is defamatory of the plaintiff in its entirety as well as in the following statements:

"The singer says she would top the charts again - if only everyone else wasn't so misguided."

"A 1993 tour in support of *Rockinghorse* was cancelled and it was revealed that the stress-related ailments included a hiatus hernia, gallstones, a kidney infection and an eating disorder. There were also rumours of a cocaine habit."

"Yet Myles points the finger at everyone save herself when it comes time to laying the blame for her stalled career."

"She can still be as overbearing as ever and her ego still transcends even the tremendous power of her sultry voice..."

"Ultimately, it's apparent that Myles has no concrete goals apart from finding a husband and having a baby."

"And while Myles seems to be flailing in the exhaust fumes of a burnt-out career,..."

8. Each of these defamatory statements referred to the plaintiff and could be understood to refer to the plaintiff. Each statement was defamatory to the plaintiff.

8A. The words meant and were understood to mean in their natural and ordinary meaning that:

(a) the Plaintiff had a cocaine habit;

(b) the Plaintiff possessed and used cocaine habitually;

(c) the Plaintiff was addicted to cocaine.

8B. In the alternative, the Plaintiff pleads by way of legal innuendo that the words meant and were understood to mean:

(a) the Plaintiff had a cocaine habit;

(b) the Plaintiff possessed and used cocaine habitually;

(c) the Plaintiff was addicted to cocaine.

8C. The particulars of the above-described legal innuendo are:

(a) the possession and use of cocaine is an offence contrary to section 4 of the *Controlled Drugs and Substances Act* S.C. 1996, c.19, and its predecessor statutes, including the *Narcotic Control Act*.

9. The defendant, O'Reilly, was the reporter responsible for writing the story and publishing the defamatory comments in the *National Post*. The defendant, Whyte, participated in the publishing of the defamatory comments in his professional capacity as editor-in-chief.

10. All of the defendants are jointly and severally responsible to the plaintiff for damages as a result of the publication of the defamatory words in the *National Post*.

11. The article entitled "The best and worst of Alannah Myles" disparaged the character of the plaintiff in the community and throughout the world. The defendants knew or ought to have known that the plain meaning and innuendo of the words were defamatory and libellous of the plaintiff and that the words, their meaning and the innuendo were untrue.

12. Further, the article entitled "The best and worst of Alannah Myles" disparaged the reputation and competence of the plaintiff in her profession.

13. As a result of the publication of the article the plaintiff has been greatly injured in her character, credit and reputation and has been held up to public scandal, ridicule and contempt. The defendants conduct has caused the plaintiff great distress, embarrassment, loss of reputation, humiliation and financial loss.

14. The defendants acted out of malice towards the plaintiff and with the deliberate intention of discrediting her reputation and holding her up to public scandal, ridicule and contempt. The conduct of the defendants is such to entitle the plaintiff to awards of punitive, exemplary and aggravated damages.

The plaintiff proposes that the trial of this action be heard with a jury in Toronto.

Dated: February 10, 1999

Kevin E. Kemp  
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Toronto, Ontario  
M6K 3E3

Tel: (416) 531-8229  
Fax: (416) 531-5500  
Solicitor for the Plaintiff

**ONTARIO COURT  
(GENERAL DIVISION)**

Proceeding Commenced  
at Toronto

AMENDED STATEMENT OF CLAIM

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