

CANADA / JUDGMENT

Sandher Fruit Packers Ltd. v. MacAskill

2025 BCSC 2455

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Supreme Court of British Columbia

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2025 BCSC 2455 Sandher Fruit Packers Ltd. v. MacAskill

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Sandher Fruit Packers Ltd. v. MacAskill,

2025 BCSC 2455

Date: 20251211

Docket: S254570

Registry: New Westminster

Between:

Sandher Fruit Packers Ltd., Bir Singh Sandher,

Gurtaj Singh Sandher, and Prabtaj Singh Sandher

Plaintiffs

And

Daryl Grant MacAskill

Defendant

Before: The Honourable Mr. Justice Gibb-Carsley

Reasons for Judgment

Counsel for the Plaintiffs:

M. Parrish

No further appearances

Place and Date Hearing:

New Westminster, B.C.

November 10, 2025

Place and Date of Judgment:

New Westminster, B.C.

December 11, 2025

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I. Introduction

[1] This is an application brought by the plaintiffs, Sandher Fruit Packers Ltd., Bir Singh Sandher, Gurtaj Singh Sandher, and Prabtaj Singh Sandher for an order striking the response to civil claim of the defendant, Darryl Grant MacAskill. The plaintiffs also seek an order pronouncing judgment against Mr. MacAskill with damages to be assessed at a future hearing. Finally, the plaintiffs seek special costs for steps in the proceeding for which costs have not already been set.

[2] This application occurs in the context of an ongoing campaign of unsupported hate-filled vitriol against the plaintiffs posted on the internet by Mr. MacAskill.

- [3] Sandher Fruit Packing Ltd. is a family owned and operated fruit packing business in the Okanagan area of British Columbia. The other individual plaintiffs are family members related to the operation of the fruit packing business.
- [4] Mr. MacAskill has no apparent connection to the plaintiffs. He goes by the aliases "Ace" and "Ace Ventura". Mr. MacAskill maintains and controls a blog entitled "Gangsterism Out" (the "Blog"). The Blog is hosted in the United States by a platform called Wordpress. As a result of being outside of the Canadian jurisdiction, the plaintiffs have had difficulty in having Wordpress remove what the plaintiffs say are the offensive materials without an order from an American court.
- [5] As I will describe in more detail below, Mr. MacAskill has made allegations against the plaintiffs on the Blog including that the plaintiffs are involved in criminal activity including organized drug trafficking, murder and human trafficking as well as being members of terrorist organizations and producing chemical weapons.
- [6] On August 19, 2024, the plaintiffs filed a notice of civil claim alleging that Mr. MacAskill's statements made on the Blog and elsewhere amounted to defamation (the "NOCC").
- [7] Mr. MacAskill filed a response to the NOCC on September 4, 2024 (the "Response"). It is the Response that the plaintiffs now seek to strike because Mr. MacAskill has not complied with the Supreme Court Civil Rules [Rules]. In the alternative, the plaintiffs argue that the Response should be struck because Mr. MacAskill's conduct amounts to an abuse of process.
- [8] For the reasons that follow, I will strike the Response and order judgment against Mr. MacAskill in favour of the plaintiffs. Put simply, Mr. MacAskill has fallen so far below the standards expected of litigants both in his compliance with the Rules and by acting in a manner that constitutes an abuse of the Court's process that he should be disentitled from continuing to defend against this proceeding.
- [9] In these reasons for judgment, I will set out some background facts then turn to my analysis and determination. Finally, I will provide my view as to the procedure for the next steps of this proceeding. However, before turning to those matters, I will address the issue of Mr. MacAskill's failure to attend at this application.

A. Mr. MacAskill's Failure to Attend This Hearing

- [10] I was provided evidence that Mr. MacAskill was properly served with the application materials by email on October 22, 2025, and by registered mail on October 21, 2025. I was provided with an email sent by plaintiffs' counsel to Mr. MacAskill on November 3, 2025, that reminded Mr. MacAskill of the November 10, 2025 hearing and warned Mr. MacAskill that if he failed to appear "[the plaintiffs] will be seeking to proceed with the application in [Mr. MacAskill's] absence under Rule 22-7."

- [11] There is some indication, based on Mr. MacAskill's correspondence with counsel and Supreme Court Scheduling (SCS), that he has moved to Ontario. I offered Mr. MacAskill, through SCS, the opportunity to appear by video at the hearing. He refused. At the commencement of the application, the court clerk paged Mr. MacAskill and he did not appear. Further, the court clerk confirmed that no one attempted to attend the hearing virtually.
- [12] Plaintiffs' counsel also produced an additional email that demonstrates that Mr. MacAskill was aware of the hearing. The email exchange of October 16, 2025, is purportedly between Mr. MacAskill and Chris Parry, a communications consultant hired by the plaintiffs. The exchange includes the following message from Mr. MacAskill from a Gmail account email he uses under the name Ace Ventura:

Next court appearance WILL cost the Sandhers \$50k+, and it is guaranteed to change not a thing. Not a thing.

They have blown \$400k+ so far. (surely)

YOU go n n and tell these sickening MFers to make me an offer to remove everything.

Do it now you bag of [expletive].

[Emphasis in original.]

- [13] In another email, Mr. MacAskill writes to Mr. Parry, "You go run and tell your Sandher scum I want to make a deal."
- [14] Clearly, Mr. MacAskill was aware of this hearing based on his reference to the upcoming hearing. Further, the emails support an inference that Mr. MacAskill is motivated to extort some form of payment to stop his actions by requesting a sum of money to "remove everything" which I take to mean the derogatory statements on the Blog. Although this is not directly relevant to the application, these emails somewhat attenuate any view that Mr. MacAskill is motivated by seeking the truth, or his version of the truth, on the Blog.
- [15] Mr. MacAskill also failed to appear at the previous hearing scheduled before me. That hearing was for an application to find him in contempt of an earlier injunction issued by the court and for him to pursue his application to pause the plaintiffs' defamation claim under the Protection of Public Participation Act, S.B.C. 2019, c. 3 [PPPA]. On May 6, 2025, in reasons indexed as Sandher Fruit Packers Ltd. v. MacAskill, 2025 BCSC 844 (the "PPPA Decision"), I dismissed Mr. MacAskill's application under the PPPA and issued a warrant for his arrest to appear before the court to answer for his contempt. I mention this because Mr. MacAskill's refusal to participate in the application now before the court, despite his awareness that it was occurring, is neither new, nor surprising.

[16] In summary, I am satisfied that Mr. MacAskill was properly served with the application materials, was aware of this hearing and purposely chose not to attend. As such, it was appropriate in the circumstances to proceed in his absence.

II. Background

A. Procedural History

[17] As referenced, beginning in or around March 2024 and continuing to the present date, Mr. MacAskill has directed a campaign of harassment, abuse and defamation against the plaintiffs through an online blog he maintains and controls called "Gangsterism Out", accessible at <https://www.gangsterismout.com/>.

[18] As referenced above, Mr. MacAskill has posted dozens of statements about the plaintiffs on the Blog, including alleging the plaintiffs are connected or involved with the following:

- a) the Sinaloa drug cartel and the Brothers Keepers gang;
- b) the Khalistan Tiger Force, and the Babbar Khalsa International, both terrorist organizations; and
- c) various criminal activities in furtherance of their business and alleged gang and terrorist activities, including murder, human trafficking, terrorism, drug trafficking, drug smuggling, extortion, money laundering, bribery, fraud and chemical weapons development.

[19] On August 19, 2024, the plaintiffs filed the NOCC seeking damages for the torts of defamation, harassment, and internet harassment.

[20] On August 26, 2024, Mr. MacAskill filed a Notice of Application seeking that the plaintiffs' claim be dismissed pursuant to the PPPA, on the basis that the claim unduly limited expressions of public interest.

[21] On September 3, 2024, the plaintiffs sought an interim injunction before Justice Branch. On September 19, 2024, Branch J. granted an interim injunction requiring Mr. MacAskill to remove and not repost statements that could be considered defamatory: *Sandher Fruit Packers Ltd. v. MacAskill*, 2024 BCSC 1855 (the "Injunction Order").

[22] The Injunction Order also prohibits Mr. MacAskill from further posting, writing, printing and broadcasting or causing to be posted, written, printed, and broadcast or otherwise publishing the statements considered to fall into the category of defamatory statements determined by Branch J. and words of like or similar effect, of or about the plaintiffs or their employees, counsel and agents. I note that the Injunction Order is sufficiently broad to enjoin and restrain Mr. MacAskill from sending emails to the plaintiffs and their counsel or employees that contain information considered to be defamatory.

- [23] On November 27, 2024, the plaintiffs brought an application for an order declaring Mr. MacAskill in contempt of the Injunction Order and dismissing Mr. MacAskill's claim under the PPPA. This application was heard before me on January 27, 2025, and February 7, 2025. As referenced above, despite being properly served with the application materials and being aware that the hearing was scheduled, Mr. MacAskill did not appear on either day.
- [24] In the PPPA Decision, I dismissed Mr. MacAskill's PPPA application. Further, I ordered a warrant for arrest for Mr. MacAskill pursuant to R. 22-8(5) on the basis that he was in contempt of the Injunction Order. In my reasons for judgment, I held:
- [48] I am satisfied that the defendant may be guilty of contempt by violating the terms of the Injunction Order by continuing to post or not removing posts from his Blog that contain the Defamatory Claims. Further, the defendant continues to send emails and write the same information to plaintiffs' counsel which is a prima facie violation of the Injunction Order.
- [25] In my reasons, I also encouraged Mr. MacAskill to make efforts to remove the offending content from the Blog:
- [52] ... in the strongest of terms I encourage the defendant to take steps to comply with the Injunction Order and remove the offending materials from his Blog and cease and desist from taking other steps that are contrary to that order or otherwise could be characterized as abusive.
- [53] In this regard, I would especially encourage the defendant to cease his abusive emails to counsel for the plaintiffs and to members associated with the plaintiffs' counsel. There is simply no room for that form of abuse or hate-filled language in our justice system.
- [26] Mr. MacAskill did not remove the information from the Blog and has continued to post on the Blog in violation of the Injunction Order.
- [27] On May 21, 2025, counsel for the plaintiffs served Mr. MacAskill with my order of May 6, 2025. The Warrant of Arrest for Contempt was filed with the Court on June 2, 2025. At the time of this hearing, Mr. MacAskill has not been arrested on the Warrant of Arrest for Contempt.
- [28] Counsel for the plaintiffs have repeatedly communicated with Mr. MacAskill since the warrant was issued in effort to have him address the warrant and allegations of contempt. There is no evidence that Mr. MacAskill has taken any steps to address the warrant.

B. Mr. MacAskill's continuing conduct of posting and emailing offensive materials

- [29] In addition to continued posts regarding the plaintiffs, Mr. MacAskill has sent and posted numerous negative statements alleging impropriety against Justices of this Court, court staff, the plaintiffs' lawyers and former lawyers, and the Chief Justice of the Supreme Court of Canada. The statements contain offensive language and content and generally impugn and malign Canadian courts and the administration of justice. Mr. MacAskill has published

materials about these individuals that is of the nature of personal attacks and what I characterize as offensive. I will reference some examples of this content below as I find them relevant to my determination regarding the plaintiffs' assertion that Mr. MacAskill's conduct in this litigation amounts to an abuse of process.

III. Analysis

A. Striking Pleadings for Failure to Comply with the Rules

- [30] Rules 22-7(2), (5) and (6) provide that the court may strike out a response to civil claim or a petition response where a party has failed to comply with the Rules, produce documents, attend discovery, or abide by court orders: *Tchoubarov v. Poseidon Fishing Inc.*, 2023 BCSC 1448 at para. 31.
- [31] An order to strike a party's pleadings for non-compliance with a court order has been described as a draconian remedy only to be invoked in the most egregious of cases because it deprives the litigants of a trial on the evidence. It is a blunt tool, to be used sparingly. However, it may be used in the most egregious of cases in light of multiple unexcused breaches of the Rules. Unfortunately, a merit-based determination of a case may be unattainable if the pursuit of a just outcome is frustrated: *Barrie v. British Columbia (Forests, Lands and Natural Resource Operations)*, 2021 BCCA 322 at para. 104.
- [32] Our Court of Appeal has set out the following three considerations relevant to the court's discretion to strike out pleadings: (i) whether non-compliance with the court order was wilful or intentional, or whether the offending party had an explanation for his or her non-compliance; (ii) whether the scope of the remedy is disproportionate or excessive to the "delict"; and (iii) whether a second chance should be provided to remedy the breach. This is not an exhaustive list and other relevant factors may be considered. Ultimately, the question is whether a lesser remedy would suffice: *Besic v. Kerenyi*, 2012 BCCA 187 at para. 17.
- [33] Where failure to comply with the Rules or a court order is established, the party at fault bears the onus of proving a lawful excuse for the non-compliance or non-observance: *Balaj v. Xiaogang*, 2012 BCSC 231 at para. 36. A persistent failure to comply with the Rules and court orders may result in a dismissal order. Defaults must be seen in context. The party's conduct during the claim from its inception does have a bearing on the seriousness of the default before the court: *Tchoubarov* at para. 32, citing *Breberin v. Santos*, 2013 BCSC 560.
- [34] The principle of providing a second chance becomes moot where the respondent has no intention to comply with court orders, or where multiple court orders have been breached, establishing a pattern of non-compliance: *Grewal v. Nijjer*, 2011 BCSC 332 at paras. 20-21, aff'd 2011 BCCA 505; *XY, LLC v. Canadian Topsires Selection Inc.*, 2015 BCSC 912 at paras. 87-90; and *519981 B.C. Ltd. v. Schimert*, 2015 BCSC 2607 at para. 36.

[35] In *Grewal*, the Court struck out a statement of defence and counterclaim due to the defendants' failure to comply with an Associate Judge's order for production of documents, particulars of their defence, and an affidavit verifying their list of documents. The Court summarized at para. 20 the rationale behind striking pleadings:

It is not up to litigants to decide whether or when they will obey court orders, or whether they will only comply with some of them. Court orders must be complied with. Otherwise, the administration of justice falls into disrepute, significant costs are incurred by parties attempting to enforce compliance, and delay results. This cannot be tolerated. If a party is unable to comply with a court order, the Rules of Court provide the opportunity to seek a variation.

[36] The overarching principle requires that the court consider whether, in all the circumstances, justice requires that the defence be struck. As Justice Fitzpatrick explained in *Schwarzinger v. Bramwell*, 2011 BCSC 304 at para. 144, there comes a time when courts must say "enough". Respect for court orders, and I would add, procedural rules, is fundamental to maintaining the public's confidence in the administration of justice.

[37] On July 18, 2025, the plaintiffs delivered a letter to Mr. MacAskill enclosing their List of Documents and a Notice of Appointment to Examine for Discovery on August 20, 2025 (the "July 18 Letter"). In the July 18 Letter, the plaintiffs requested Mr. MacAskill deliver his list of documents as required under R. 7-1(1) and notified him that if he failed to deliver his list of documents or attend at his examination for discovery, the plaintiffs would apply to have the Response struck for non-compliance under R. 22-7(5). Mr. MacAskill did not produce his documents nor did he attend for discovery. As such, he has failed to deliver a list of documents contrary to R. 7-1(1) and he has failed to attend at the time and place appointed for the examination for discovery of him contrary to R. 7-2(14).

[38] Further, if Mr. MacAskill has indeed moved to Ontario as he has indicated in his communications then he has also failed to provide a notice of change of address contrary to R. 4-1(1.1) and R. 4-1(3).

[39] Mr. MacAskill offers no explanation for non-compliance nor does he offer a solution or make any effort to bring himself into compliance despite being provided frequent notice that his conduct will trigger this application to strike the Response. Indeed, his disregard for compliance appears willful. His conduct presents clear breaches of the Rules.

[40] I am also satisfied that Mr. MacAskill has breached the Rules by posting information and documents produced by the plaintiffs, thus running afoul of the implied undertaking of confidentiality (R. 7-1(1)). When the documents were disclosed to Mr. MacAskill on July 28, 2025, plaintiffs' counsel included a warning in their covering letter about the implied undertaking prohibiting parties from disclosing documents from an opposing litigant for any purpose other than litigation. The plaintiffs' counsel warned Mr. MacAskill that if he breached the implied undertaking of confidentiality the plaintiffs would apply to strike the Response. Despite this, on July 29, 2025, Mr. MacAskill published emails that formed part of the disclosure.

- [41] Mr. MacAskill's conduct demonstrates a clear, repeated and flagrant violation of the Rules. I acknowledge that Mr. MacAskill is not a lawyer. However, I am satisfied that he was made aware that he was not to post or use the information disclosed in this litigation for any purposes other than the litigation. I conclude his conduct is deliberate.
- [42] I am also satisfied that Mr. MacAskill has willfully failed to comply with this Court's injunction order dated September 19, 2024, by continuing to post content defamatory to the plaintiffs in breach of the Injunction Order. Further, he has evaded service of the Court's warrant for arrest filed with the Court on June 2, 2025.
- [43] Additional examples of Mr. MacAskill's disregard for the Rules include that the Response and various application materials fail to comply with R. 3-3(2)(c); R. 8-1(4)(c); and, R. 8-1(10)(b)(i). These rules require that a party must set out a concise summary of the legal basis for opposing the relief sought by the opposing party. The legal basis of Mr. MacAskill's pleadings are bereft of detail. For example, in his Response the only legal basis he provides is a reference to the PPPA in general. In his responses to the plaintiffs' applications his legal basis only states "the inherent jurisdiction of the court" or includes no legal basis at all.
- [44] Mr. MacAskill's affidavits filed in support of his applications contain inadmissible hearsay, inadmissible opinion evidence, subjective descriptions, reactions, opinions regarding motive, speculation, argument, irrelevant information, and, based on information provided by the plaintiffs at applications what appears to be manifestly false evidence. His affidavits fail to state only what a person swearing or affirming the affidavit would be permitted to state in evidence at trial and thus run afoul of R. 22-2(12).
- [45] Finally, Mr. MacAskill has not presented himself before the court to answer to his alleged contempt. As set out above, this resulted in me issuing a warrant for his arrest. It appears that instead of answering to the contempt and complying with the warrant for arrest, Mr. MacAskill relocated to Ontario. Fleeing the jurisdiction as opposed to submitting to the court to address his alleged contempt demonstrates a further disregard for the court and the court processes.
- [46] I am satisfied that when considering the three elements set out by our Court of Appeal in *Besic*, the Response should be struck.
- [47] First, I conclude that Mr. MacAskill's non-compliance with the court order was wilful or intentional. He has not provided an excuse or explanation for his failure to abide by the Rules or the Injunction Order despite warnings from this Court and counsel for the plaintiffs.
- [48] Second, I find that the remedy of striking the pleadings is not disproportionate or excessive to the delict. As set out above, Mr. MacAskill has had numerous breaches and displayed a continuous disregard for the Rules.

- [49] Third, given the number of breaches and the sustained conduct of Mr. MacAskill, I find that he should not be afforded a second chance to remedy the breach. As set out above, there is not just one breach. There is a pattern of breaches. I have no confidence that if Mr. MacAskill were given a second chance that he would act in a different manner.
- [50] Striking the Response in the circumstances is proportionate given Mr. MacAskill's ongoing conduct and non-compliance with court orders. There is no meaningful sanction available other than to strike the Response in this action. Anything else would leave the door open for Mr. MacAskill to disregard further court orders and the Rules which would be an affront to the administration of justice: *Axion Ventures Inc. v. Bonner*, 2024 BCSC 198 at paras. 57-58.
- [51] In summary, I find that the plaintiffs have met the high bar to satisfy me that the Response should be struck in its entirety.
- [52] I will now address the plaintiffs' alternative argument that the Response should be struck because Mr. MacAskill's conduct in these proceedings amounts to an abuse of process.

B. Striking Pleadings for Abuse of Process

- [53] As an alternative, the plaintiffs contend that the court could strike the Response on the basis that it amounts to an abuse of process. Rule 9-5(1)(d) of the Rules allows the court to prevent a claim from proceeding where to do so would violate principles of judicial economy, consistency, finality, and the integrity of the administration of justice: *McCaw v. JDS Energy & Mining Inc.*, 2024 BCSC 1810 at para. 35, citing *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at paras. 35-37.
- [54] The abuse of process doctrine allows courts to dismiss actions where the court process is used for improper purposes. Abuse of process is a flexible doctrine unencumbered by specific requirements: *Krist v. British Columbia*, 2017 BCCA 78 at para. 52.
- [55] The categories of abuse of process are open. Abuse of process may be found where the process of the court is not being fairly or honestly used, or is employed for some ulterior or improper purpose; proceedings which are without foundation or serve no useful purpose and multiple or successive proceedings which cause or are likely to cause vexation or oppression: *Acumar Consulting Engineers Ltd. v. The Association of Professional Engineers and Geoscientists of British Columbia (APEGBC)*, 2014 BCSC 814 at para. 30.
- [56] Mr. MacAskill's conduct during this litigation is concerning and should not be tolerated. I was presented evidence of him distributing and posting numerous unsupported and negative statements regarding a Justice of this Court, court staff, the plaintiffs' former lawyer and the Chief Justice of the Supreme Court of Canada. There are vile, offensive comments made regarding the Chief Justice of the Supreme Court of Canada and the plaintiffs' former counsel. Further, Mr. MacAskill has published what appear to be surreptitious pictures taken of one of the court registry staff at the courthouse during work hours in conjunction with his unsupported allegations.

- [57] Individuals are entitled to free speech in Canada and allowed to critique participants in the justice system. However, Mr. MacAskill's comments are baseless and unrelated to the functions or procedures of the court. In my view, to use the litigation as a forum for these comments is abusive and supports striking the pleadings.
- [58] Finally, as already mentioned, Mr. MacAskill breached the implied undertaking of confidentiality by posting information that was provided to him in the discovery process in this litigation on the Blog and publishing it by disseminating it to others. I find that Mr. MacAskill's flagrant breach of the implied undertaking provides further support that he has abused the court process: *Oliveira v. Oliveira*, 2023 ONCA 520 at paras. 40-49, 60.

C. Judgment For the Plaintiffs

- [59] Given the foregoing and the totality of the conduct of Mr. MacAskill I will not allow him to continue in this litigation by providing him an opportunity to comply with the Rules or remedy his abusive conduct. The number of continued breaches and the increasing vitriol in his posts gives me no confidence that, if given a chance, he will conduct himself differently in the future.
- [60] Accordingly, I order the Response to be struck and award default judgment to the plaintiffs.

D. The Assessment of Damages

- [61] The plaintiffs sought leave to have damages for their claim for defamation assessed at a trial of that issue pursuant to R. 3-8(12) or R. 3-8(13) if the Court granted default judgment. The rules governing the assessment of damages for default judgment are as follows:
- (12) Subject to subrule (13), if a plaintiff has obtained judgment for damages to be assessed or value to be assessed,
- (a) the plaintiff may set the assessment down for trial, and
- (b) if the assessment is set for trial, unless the court otherwise orders, the assessment must be tried at the same time as the trial of the action or issues against any other defendant.
- (13) If a plaintiff has obtained judgment under subrule (5) or (6), the plaintiff may, instead of proceeding to trial to assess the damages or the value of the goods, apply to the court, and, on that application, the court may
- (a) assess the damages or value of the goods summarily on affidavit or other evidence,
- (b) order an assessment, an inquiry or an accounting,
- (c) give directions as to the trial or hearing of the assessment or determination of value, or
- (d) make any other order the court considers will further the object of these Supreme Court Civil Rules.

- [62] Further, the plaintiffs requested the option to consider whether the evidence presented at the future trial to assess damages would be based on affidavit evidence or viva voce evidence. The reason for this request was to allow the plaintiffs to consider the most cost-efficient and generally effective manner to proceed.
- [63] Given that the plaintiffs have undoubtedly incurred significant legal costs already by participating in this litigation, I conclude that they should be given the opportunity to present the evidence on the quantification of damages either by affidavit evidence or viva voce evidence, but that choice be left to them. As such, I grant them leave to determine the procedure they wish to use for presenting evidence at the trial to assess damages which they may schedule through SCS. I remain seized of this matter.

E. Costs

- [64] The plaintiffs seek special costs on this application. Special costs are awarded to punish conduct during litigation which is "reprehensible", including scandalous and outrageous conduct as well as milder forms of misconduct deserving of rebuke. The standard for "reprehensible" conduct is met where there is evidence of improper motive, abuse of the court's process, misleading the court, or persistent breaches of professional conduct: *Hartley v. Durante*, 2024 BCSC 1006 at paras. 8-9. Conduct that is an abuse of process is, by its nature, reprehensible and deserving of rebuke in the form of special costs: *Hollander v. Mooney*, 2017 BCCA 238 at para. 79.
- [65] I am satisfied that Mr. MacAskill's conduct is egregious and worthy of rebuke. Mr. MacAskill has demonstrated complete disregard for court orders and rules, the plaintiffs, and the plaintiffs' counsel. He has disregarded court officials and employees of the Court through unsubstantiated attacks which, at their core, call into question the independence and impartiality of the judiciary and the participants in that system.
- [66] For the reasons outlined above, special costs of this application are warranted. However, there have been applications in these proceedings in which costs were already ordered against Mr. MacAskill at Scale B. In my view, it is not appropriate to increase or vary those previous costs awards. As such, I will grant special costs to the plaintiffs for matters which costs have not previously been awarded in these proceedings. I will defer the assessment of reasonable special costs to the hearing on the quantification of damages. Alternatively, the plaintiffs may arrange to appear before the Registrar of the Court for the purpose of assessing costs.

IV. Summary of Orders

- [67] In summary, I make the following orders:
- Mr. MacAskill's response to notice of civil claim is struck in its entirety;
 - the plaintiffs are granted default judgment;

- c) damages will be assessed at a future hearing before me, in the manner requested by the plaintiffs for presenting evidence with the approval of the Court;
- d) the portions of the litigation to which special costs apply will be determined before me, or before the Registrar of the Court; and
- e) Mr. MacAskill's signature is dispensed with on this order.

V. Conclusion

- [68] Mr. MacAskill's conduct in this litigation is troubling. Without question free speech is a cornerstone of a free and democratic society. People are entitled to express their opinions and their concerns regarding their personal views of others and events in the world. However, there are limits to that expression. Further, as referenced above, there is some evidence before me in the form of email exchanges between Mr. MacAskill and a representative of the plaintiffs that suggests that Mr. MacAskill was driven not by the pursuit of the truth, but instead to extort money from the plaintiffs. Further, despite making and spreading these unproven claims, Mr. MacAskill refuses to participate in the court process or comply with court orders and instead continues to hide in the shadows of the internet.
- [69] It is unfortunate that the plaintiffs have had to expend such time and effort to defend themselves against Mr. MacAskill's accusations. Further, counsel for the plaintiffs and court staff and other justice participants have been subjected to Mr. MacAskill's vitriol. The way Mr. MacAskill has conducted himself in these proceedings should have no place in litigation.
- [70] I commend counsel for the plaintiffs for their patience and professionalism in their approach to this case and continuing to engage with Mr. MacAskill in a respectful manner despite it being not reciprocated. I thank counsel for his submissions on this application and his candour in presenting the evidence in what I viewed as a fair and even-handed manner given Mr. MacAskill did not attend.

"Gibb-Carsley J."

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