

CANADA / JUDGMENT

Sandher Fruit Packers Ltd. v. MacAskill

2025 BCSC 844

COURT

Supreme Court of British Columbia

DECIDED

6 May 2025

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2025 BCSC 844 Sandher Fruit Packers Ltd. v. MacAskill

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Sandher Fruit Packers Ltd. v. MacAskill,

2025 BCSC 844

Date: 20250506

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

Corrected Judgment: The text of the judgment was corrected at paragraph 50, where changes were made on May 12, 2025.

Before: The Honourable Mr. Justice Gibb-Carsley

Reasons for Judgment

Counsel for Plaintiffs:

D. Byma

N. Wells

B. Turner, Articled Student

No further appearances

Place and Dates of Hearing:

New Westminster, B.C.

January 27 and February 7, 2025

Place and Date of Judgment:

New Westminster, B.C.

May 6, 2025

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I. Introduction

- [1] There are three applications brought before the Court. All are related to an underlying claim brought by the plaintiffs, Sandher Fruit Packers Ltd., Bir Singh Sandher, Gurtaj Singh Sandher, and Prabtaj Singh Sandher for defamation, harassment and internet harassment, against the defendant, Daryl Grant MacAskill. The Notice of Civil Claim alleging these wrongs was filed on August 19, 2024 (the "Defamation Claim").
- [2] Sandher Fruit Packers Ltd. is a fruit farm operated in Kelowna, British Columbia. The individual plaintiffs are family members and associates who operate and are related to the business. The heart of the plaintiffs' claims against the defendant are their assertion that the defendant has repeatedly made false allegations against the plaintiffs on the internet through the defendant's blog and other internet postings.
- [3] The defendant's statements about the plaintiffs to which they take offence include statements that the plaintiffs have committed murder, human trafficking, illegal immigration activities, money laundering, drug trafficking and smuggling, bribery of public officials and politicians; and that the plaintiffs are financing and sponsoring terrorist groups, members of terrorists groups, and members of organized crime gangs including the Sinaloa drug cartel and the Brothers Keepers. The statements also include crude, racist and homophobic language and content. The plaintiffs argue that there is no basis for any of the statements and that their reputation and livelihoods have been adversely impacted by the baseless accusations.
- [4] Of the three applications now before the Court, one is brought by the plaintiffs and two by the defendant.
- [5] Despite being properly served with the application materials and aware that the hearing was scheduled, the defendant did not appear at either day of the two days of hearing. Plaintiffs' counsel and the Court, through Supreme Court Scheduling, made efforts to ensure that the defendant was aware of both of the dates set for hearing. I understand that filing materials and not attending court hearings is a pattern for this defendant. In any event, for the reasons I will describe below, I proceeded with the applications. In my view, it was in the interests of justice to proceed. Further, I have concluded that the defendant made an active choice not to participate in the hearings despite being aware of the hearings and being involved in the original scheduling of the dates.

- [6] The application brought by the plaintiffs is set out in the plaintiffs' Notice of Application filed on November 27, 2024 (the "Contempt Application") and is for an order declaring that the defendant is in contempt of an injunction ordered by Justice Branch on September 19, 2024 (the "Injunction Order"). In the Injunction Order, Branch J. ordered that the defendant remove certain posts that made the allegations I referenced above from the defendant's blog. The Injunction Order also enjoined the defendant from posting any further information of that type about the plaintiffs. The plaintiffs assert that the defendant has not removed the offending content as required and, in fact, has continued to post defamatory comments. As such, the plaintiffs assert that the defendant is in contempt of the Injunction Order.
- [7] As I will describe below, the Injunction Order and the Contempt Application were properly brought to the attention of the defendant, but the defendant was not present at the hearing. However, given the quasi-criminal nature of contempt proceedings and the principles of *strictissimi juris*, the contempt hearing was adjourned generally and instead the plaintiffs made submissions as to why the Court should issue a warrant of arrest for the defendant to compel him to appear at a future contempt hearing. I accept that procedure is the proper way to proceed and heard the plaintiffs' submissions as to why an order for arrest should be issued for the defendant pursuant to s. 22-8(5) of the Supreme Court Civil Rules [Rules].
- [8] The second application before the Court is brought by the defendant under the Protection of Public Participation Act, S.B.C. 2019, c. 3 [PPPA]. The defendant filed his Notice of Application on August 26, 2024 (the "PPPA Application"). In the PPPA Application, the defendant seeks an order to dismiss the plaintiffs' Defamation Claim on the basis that the claim unduly limits expressions of public interest. In short, the defendant argues that the claims he makes about the plaintiffs on the internet are in the public interest and so should not be muzzled by the plaintiffs' Defamation Claim. The crux of applications brought under the PPPA to dismiss civil claims alleging defamation is whether the public interest in an impugned expression - the alleged defamatory comments - outweigh a plaintiff's interests in vindicating their rights through a lawsuit.
- [9] Again, I note that this is the defendant's application under the PPPA, but he did not appear. The plaintiffs assert that the PPPA Application should be heard in the absence of the defendant. They allege that it is a pattern for this particular defendant to set matters down and not appear. I accepted the plaintiffs' position and heard the application in the absence of the defendant based on the materials before me.
- [10] In this regard, I note that by operation of the PPPA, a plaintiff can take no steps in its action until a defendant's PPPA application is resolved. As such, the plaintiffs are held hostage if the defendant's application is not heard. Given that (1) the defendant was aware of the hearing; (2) it was his application and I have his materials; (3) the delay prejudices the plaintiffs; and, (4) I have the benefit of Branch J.'s determination of issues relevant to this application and the defendant appeared before Branch J., I heard the application.

- [11] The final application was filed by the defendant on November 26, 2024, and seeks an order that he be permitted to cross-examine the plaintiffs in support of his PPPA Application (the "Cross-examination Application"). The plaintiffs oppose the application on the grounds that the defendant has failed to meet the basic requirements of the Rules to be permitted to cross examine on the affidavits. Further, the plaintiffs assert there is no merit to the defendant's application and it is a disguised effort to delay the proceedings.
- [12] In these reasons for judgment, I will first provide some facts for context. I will then turn to each application before me.

II. Facts

A. The Parties

- [13] As referenced above, Sandher Fruit Packing Ltd. is a family owned and operated fruit packing business in the Okanagan.
- [14] The defendant is an individual with no apparent connection to the plaintiffs, who goes by the aliases "Ace" and "Ace Ventura". The defendant uses the email address "drstoxxman@gmail.com." The defendant maintains and controls a blog entitled "Gangsterism Out" (the "Blog").

B. The Defendant's Online Content Regarding the Plaintiffs

- [15] In or around March 2024, the defendant began posting information about the plaintiffs, by publishing online and routinely updating his Blog with statements about the plaintiffs. The defendant also sent statements and links to the Blog in emails to the plaintiffs, their employees, and third parties whom the defendant apparently believes are associates with the plaintiffs. These associates also included entities that have contractual relationships with the plaintiffs.
- [16] The defendant created dozens of emails and Blog posts that included allegations of different natures. The general types of claims the defendant has brought against the plaintiffs can be characterized as falling into the following groups:
- 1) allegations of the unlawful dumping of "sewage" from their fruit packing facilities into public waterways (the "Environmental Claims");
 - 2) allegations of connections between the plaintiffs and the Sinaloa drug cartel based in Mexico and the Brothers Keepers, an Indo-Canadian organized crime syndicate (the "Gang Claims");
 - 3) allegations of connections between the plaintiffs and the Khalistan Tiger Force, designated as a terrorist organization by the Government of India, and Babbar Khalsa International, designated as a terrorist organization by the Government of Canada (the "Terrorism Claims"); and

- 4) allegations of the plaintiffs participation in various criminal activities in furtherance of their business and alleged gang and terrorist activity, including murder, human trafficking, terrorism, drug trafficking, drug smuggling, extortion, money laundering, bribery, fraud, and chemical weapons development (the "Criminal Activity Claims").

(Collectively, the "Alleged Defamatory Statements".)

- [17] I will provide more details of the Alleged Defamatory Statements made against the plaintiffs by the defendant later in these reasons.

C. Relevant Legal Proceedings and Filings

- [18] While I have referenced the dates of various filings in this matter, for convenience, I will repeat the history of the most relevant filings of legal proceedings.
- [19] On August 19, 2024, the plaintiffs filed a Notice of Civil Claim against the defendant claiming the tort of defamation, harassment and internet harassment (previously defined as the "Defamation Claim").
- [20] On August 26, 2024, the defendant filed the PPPA Application. On September 4, 2024, the defendant filed a Response to Civil Claim.
- [21] On September 3, 2024, the plaintiffs sought an interim injunction before Justice Branch. On September 19, 2024, Branch J. granted the Injunction Order that required the defendant to remove and not repost statements that could be characterized as falling into the categories referred to above as the Gang Claims, Terrorism Claims and the Criminal Activity Claims. Attached to the Injunction Order was a schedule that set out a list of defamatory statements made by the defendant that included statements alleging the plaintiffs participated in the activities that included: murder; human trafficking and illegal immigration activities; money laundering; financing and sponsoring terrorist groups; being members of terrorist groups; drug trafficking and smuggling; stealing water from the Crown, and bribing public officials and politicians. Further, Branch J. recognized in the Injunction Order that the language used by the defendant was commonly understood to reflect homophobic phrases and tropes.
- [22] Justice Branch found that some of the defendant's statements made regarding the Environmental Claims did not persuade him "beyond doubt" that the defendant had no defence to making those claims. However, he was satisfied that the test for ordering an injunction was satisfied for the remaining claims. In *Sandher Fruit Packers Ltd. v MacAskill*, 2024 BCSC 1855 at paras. 40 and 41, Branch J. articulated his conclusions:
- [40] I note parenthetically that had I been in a position to apply the traditional interlocutory injunction merits test rather than the heightened Yu standard, I would have found that it was satisfied with respect to the Environmental Claims.

- [41] Beyond this one reservation for the Environmental Claims, I find that the heightened standard has been met in relation to the Drug, Terrorism, and Crime-Related Claims set out in the balance of Schedule A. The Challenged Statements are defamatory. Once again, the only defence the defendant suggested he planned to advance in relation to these claims was justification. However, unlike the situation concerning the Environmental Claims, there is no useful evidence before me supporting such hurtful and extreme statements beyond the defendant's own personal belief in their truth. In *Connective Support Society v. Melew*, 2024 YKSC 15, the Court noted that the onus of proof in relation to a defamation defence is on the defendant: para. 26. It is notable that in that case, the Court also found that the test was met for some allegations, but not others. In relation to those statements where the Court found that the test was met, the Court stated that "no facts have been provided in the posts to support these assertions": para. 33.
- [23] As I will describe below, the defendant was made aware of Branch J.'s order because it was delivered orally, but also by the actions of the plaintiffs' counsel.
- [24] It is with this understanding of the background facts leading up to the applications now before the Court that I now turn to my discussion and analysis of the three applications before the Court.

III. Discussion

- [25] I will first address the plaintiffs' Contempt Application which, as referenced above, is now an application as to whether a warrant should be issued for the defendant to bring him before the Court for a contempt hearing. I will then consider the defendant's applications to cross-examine the plaintiffs and to dismiss the Defamation Claim pursuant to the PPPA.

A. Plaintiffs' Application for an Order of Contempt

- [26] The Contempt Application is framed as an application to find the defendant in contempt of the Injunction Order. However, given the quasi-criminal nature of contempt, and the principles of *strictissimi juris* that are engaged in contempt proceedings that require a high standard of procedural fairness and evidence, the plaintiffs concede that the contempt hearing cannot proceed in the absence of the defendant.
- [27] Given the absence of the defendant, the plaintiffs seek the court to order an arrest warrant for the defendant under Rule 22-8(5) of the Rules. This requires the Court to consider whether there is a *prima facie* case of contempt against the defendant. For the reasons that follow, I find that test is met and I will issue a warrant for the arrest of the defendant so that he is brought before the Court to answer for his contempt.
- i. Notice of the Materials Upon the Defendant

- [28] As a starting point on this application, I am satisfied that the defendant has proper notice of the Injunction Order and the Contempt Application. Rule 22-8(11) states that a party applying for a contempt order must serve the alleged contemnor with notice and a supporting affidavit at least seven days before the hearing. Under Rule 4-3(1)(i) of the Rules, a contempt application must be served personally. However, Rule 4-3(1) provides that personal service is required "unless the court otherwise orders".
- [29] I was provided with an affidavit affirmed on January 23, 2025, of Nathan Wells, of the plaintiffs' law firm. In the affidavit, Mr. Wells affirms that on November 27, 2024, he attended at the New Westminster courthouse to appear as counsel on this matter in Chambers. He intended to serve a copy of the Contempt Application upon the defendant on that day.
- [30] In the affidavit, Mr. Wells affirms that he attempted to provide the defendant with the box of materials for the Contempt Application. However, the defendant would not accept the box of materials and uttered curse words to Mr. Wells. The defendant also stated to Mr. Wells words to the effect that he did not want the materials. While I will not detail all of the ensuing altercation, Mr. Wells affirms that later that same day, still in the courthouse, the defendant again swore at him, made a rude gesture with his fingers and pushed Mr. Wells in the shoulder. This interaction was followed by what I characterize as abusive and offensive emails from the defendant to Mr. Wells. Although there was this interaction, the defendant did not accept the Contempt Application materials on November 27, 2024.
- [31] I was also provided with an affidavit from the plaintiffs' law firm affirmed on January 27, 2025, that provides that the application record and index for the Contempt Application were sent by email to the defendant on January 23, 2025. The plaintiffs' law firm received an email in response, from the email used by the defendant, at gmail.com that stated, "You are now blocked."
- [32] In my view, the defendant is aware of the contempt application and the materials. Most importantly, he was aware of the Injunction Order as he was present when Branch J. delivered his reasons orally. Further, I have been shown emails that provide that the defendant was emailed the entered Injunction Order on September 26, 2024. Finally, that the defendant was aware of this application is made clear by his correspondence about this application with Supreme Court Scheduling. Indeed, the date of the hearing was selected as a date that was available to the defendant for his applications.
- [33] Further, a review of an entry on the defendant's Blog under a story titled, "Justice Ward K. Branch - rude, threatening" it appears the defendant writes about himself in the third person stating: "His singular goal is to put documents into the public record. If that is denied he will not appear for any Sandher contempt hearing" (emphasis in original).

[34] I have no hesitation in accepting that the defendant is aware of the terms of the Injunction Order and also aware that the Contempt Application would be proceeding on January 27, 2025. There is extensive email correspondence between the plaintiffs' counsel and the defendant advising that the Court had scheduled the matter to be heard and that, if the defendant did not attend, the plaintiffs would ask to proceed in his absence. It cannot be said that the application would be a surprise to the defendant.

[35] As such, I will order that the service requirements of the contempt application are dispensed with given that the defendant was aware of this proceeding. That said, as discussed above, the full contempt hearing is not now before me. Instead, it is only an application as to whether a warrant should issue for the defendant to have him brought before the Court to answer for his alleged contempt.

ii. Allegations that the Defendant Is in Contempt of the Injunction Order

[36] The relief set out in the Injunction Order included that the defendant:

shall "forthwith remove, and shall take steps to remove, or in the cases of posts that [the defendant] cannot remove personally shall direct whichever party has the ability to remove all postings, publications, articles, blogs, posts, or any written material of any kind whatsoever that he or his agents have made on the internet, or have on websites, including but not limited to the "Gangsterism Out" blog with a URL of <https://gansterismout.wordpress.com/> which contains the following Defamatory Words (as defined herein), or words of like or similar effect, being words or statements which describe, refer to, and/or identify the Plaintiffs and/or their employees, counsel and agents as having any associations with, involvement in, membership in, providing financing for, and/or connections to

[37] The Injunction Order then goes on to list specific topics that include references to specific terrorism groups, specific drug cartels and gangs, individuals who are alleged to be on government "watch lists"; specific criminal activity including murder, money laundering, human trafficking, extortion, fraud, terrorism, stealing or unlawfully diverting water, bribery of public officials; and homophobic and racial slurs and tropes (collectively defined in the Injunction Order as the "Defamatory Words").

[38] The Injunction Order also prohibits the defendant from further posting, writing, printing, and broadcasting or causing to be posted, written, printed, and broadcast, or otherwise publishing the Defamatory Words, and words of like or similar effect, of and/or about the Plaintiffs and/or their employees, counsel, and agents.

[39] The plaintiffs consider, and I agree, that the second part of the Injunction Order is broad enough to enjoin and restrain the defendant from sending emails to the plaintiffs and their counsel or employees that contains the Defamatory Words.

[40] Despite the Injunction Order, the defendant continued to post materials to the Blog and did not remove other offending materials. I will not include all of the examples of posts that offend the Injunction Order - there are many - but three examples of the posts that provide prima facie evidence of contempt of the Injunction Order are the following:

- 1) On or about October 14, 2024, the defendant published a post on the Blog which states, in part:

Through shell companies affiliated with the Sandhershers, the following chemicals have been purchased. Phosphorus trichloride, Sulphuryl chloride, Methyl Iodide, Acetic anhydride, 4-aminopyridone and l-boc-4-AP. The

first 3 are for the production of Methylphosphonyl difluoride. The KTF is preparing to produce chemical warfare agents in Canada to perpetrate chemical weapon attacks in India.

- 2) On or about October 19, 2024, the defendant published a post on the Blog which states, in part:

The decision to eliminate Donnie Lyons came from Sami El-Helou and Edgar Watson. Final orders came from the highest levels. El Chapito Ivan.

Archivaldo Guzman gave final approval. Gurtaj Sandher and Prabtaj Sandher were the hitmen. Donald Lyons was murdered because he was . major competition in the synthetic drug lab business. He was eliminated by his partners the Sinaloa Cartel, whose plans for a massive lab/bunker on Black Mountain were nearing completion.

- 3) On or about December 4, 2024, the plaintiffs law firm reviewed the Blog and discovered several other posts that appear to contravene the Injunction Order. These include:

- i. Allegations that the Sandhershers are involved with the Sinaloa Cartel; and
- ii. Allegations that the plaintiffs have constructed a \$29 million drug lab on the property and the lab is being used as an illegal weapons and drug bunker on the property.

[41] The defendant also continued to send emails which appear to breach the terms of the Injunction Order, including forwarding the offending Blog posts to counsel and others. I will not detail all of those emails, but reluctantly will reference the text of one as I believe it provides the flavour of the abuse and vitriol that the defendant uses in his correspondence. On November 12, 2024, the defendant wrote the following email to Mr. Byrna, the plaintiffs' counsel:

Nothing to say you grotesque offense? Get more Sandher affidavits from Bert Tonsoo by tomorrow, it's bound to assist, (the cops)

You are a retard serving these scum Byrna. You think after you learn everything there is to know about your client's drug production operation they would never whack you?

Fucking stupid cunt is what you are, among [sp] the biggest I've ever run across. Whatever happens, your dopey face is connected forever to the Sandhers. You get what you sow, yes dummy?

[42] Other emails include derogatory comments and allegations of criminal activity by the plaintiffs' lawyers including alleging that those lawyers are involved with organized crime. I am told that the volume of emails sent from the defendant to Mr. Byrna is significant with over 400 sent to Mr. Byrna alone since July 4, 2024, and hundreds more sent to other individuals at the plaintiffs' counsel's law firm and others.

iii. Disposition of Plaintiffs' Contempt Application

[43] Contempt of court proceedings in civil cases are governed by Rule 22-8. This rule must be interpreted and applied in view of the common law discussing the court's jurisdiction to punish for contempt. To quote the words of Mr. Justice Chiasson in *Larkin v. Glase*, 2009 BCCA 321 at paras. 8-9 :

[8] Contempt of court is an issue between a party and the court. It is not concerned with the merits of the dispute between parties to litigation (*Frith v. Frith*, 2008 BCCA 2 at para. 36, 47 R.F.L. (6th) 286). Although the issue is pursued by the respondent, the court's determination that Mr. Glase is in contempt only indirectly affects her interests. As was stated in *Ontario (Attorney General) v. Paul Magder Furs Ltd.* (1992), 1992 CanLII 7704 (ON CA), 10 O.R. (3d) 46 at 53, 94 D.L.R. (4th) 748 (C.A.), a finding of contempt of court "transcends the dispute between the parties; it is one that strikes at the very heart of the administration of justice ...".

[9] A court's ability to punish for contempt is at the core of its jurisdiction (*MacMillan Bloedel Ltd. v. Simpson*, 1995 CanLII 57 (SCC), [1995] 4 S.C.R. 725, 130 D.L.R. (4th) 385). It is a jurisdiction that must be exercised *strictissimi juris*, that is, the court must ensure no one is found to have transgressed without a full consideration of all the relevant information, including any explanations for the conduct of persons accused of violating court orders (*Frith*; *Claggett v. Claggett* (1945), 1945 CanLII 271 (BC CA), 61 B.C.R. 238 (C.A.)).

[44] Given the serious implications of contempt and its quasi-criminal nature, the doctrine of *strictissimi juris* applies, which requires precision in pleadings, procedure, and evidence: *Bassett v. Magee*, 2015 BCCA 422 at para. 35. The alleged contempt must be clearly identified and then proven beyond a reasonable doubt, based on evidence that meets trial standards of admissibility: *Bassett* at paras. 33-34, applying *Peel Financial Holdings Ltd. v. Western Delta Lands Partnership*, 2003 BCCA 551 (Chambers) and *Jackson v. Honey*, 2009 BCCA 112 at para. 12.

[45] As referenced above, the defendant did not appear at the contempt application. These same circumstances occurred previously in a different case before this Court with the same defendant (Mr. MacAskill) before Justice Riley (as he then was) in *Canada Easy Investment Store Corporation v. MacAskill*, 2022 BCSC 202 [Canada Easy Investment]. In *Canada Easy Investment*, the defendant also allegedly defamed a plaintiff. The plaintiff sought a contempt

order, but the defendant did not appear. As such, Riley J. granted a warrant for the arrest of the defendant - although as I will describe below, he adjourned the issuance of the warrant on the view that the parties might be able to resolve issues without the need for the defendant's arrest.

- [46] I cannot express the procedure to follow and its rationale for determining whether an arrest warrant should issue any better than did Riley J. in *Canada Easy Investment* at paras. 70 and 71:
- [70] Mr. MacAskill did not attend court for the hearing of the contempt application. The notice was properly served on him, he was aware of the hearing, and he chose not to attend. As I explained above, Mr. MacAskill is not entitled to hold the plaintiffs - or the Court - hostage by his refusal to participate. Still, applying the principle of *strictissimi juris* discussed at para. 9 of *Larkin*, the court cannot make a definitive finding of contempt before considering all of the information, including any possible explanation that may be offered by the alleged contemnor. Rules 22-8(5) and (6) recognize this by setting up a two-step procedure to be followed in cases where the alleged contemnor does not appear in response to a duly served contempt application. At the first stage, if the presiding judge is of the opinion that the person may be in contempt, the judge may issue a warrant to have the person apprehended and brought before the court. Once the person is apprehended and brought before the court, the court can deal with the application in a summary manner, or alternatively can give further directions for the determination of the person's guilt or innocence.
- [71] Applying those principles in the case at bar, the question at this stage of the proceedings is whether I am satisfied that Mr. MacAskill "may be guilty of contempt" as discussed in Rule 22-8(5). If the court is so satisfied, a warrant can be issued compelling Mr. MacAskill to come before the court to answer to the allegation.
- [47] I will adopt and accept Riley J.'s characterization of the role of the Court in circumstances where an alleged contemnor fails to appear at a contempt hearing yet there is some evidence before the Court of the alleged contempt. I accept that at this stage of the proceedings, that I must determine if I am satisfied that the defendant "may be guilty of contempt". Based on the evidence, I am.
- [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.

- [49] Accordingly, I find that there is a prima facie case that the defendant has breached the injunction. I note that in *Canada Easy Investment, Riley J.* determined that his decision on the summary trial might be sufficient to deter the defendant from further harassing and defamatory behaviour. As such, he adjourned, generally, the application for the warrant under Rule 22-8(5) of the Rules giving the plaintiff an opportunity to reapply if the defendant failed to bring himself into compliance with the Court orders.
- [50] In the case at bar, adjourning the warrant was not suggested to me as an option by the plaintiffs. Further, contempt is strictly an issue between an individual and the Court. Accordingly, I will not adjourn the application for a warrant. In my view, the warrant should issue and the defendant be brought before the Court to answer for his contempt. Therefore, I order that a warrant for arrest be issued in Form 115 for Daryl MacAskill pursuant to Rule 22-8(5) of the Rules.
- [51] In addition to issuing the warrant for the arrest of the defendant, I will also order that the remainder of the plaintiffs' application for contempt be adjourned generally without prejudice to the plaintiffs to set the matter down for hearing. I am not seized of that application.
- [52] Before concluding, I note that one of the factors the Court will consider in a contempt hearing are the steps that an alleged contemnor has taken to purge his or her contempt. As such, 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.

B. Defendant's Application to Cross Examine the Plaintiffs

- [54] In the Cross-examination Application filed on November 26, 2024, the defendant seeks an order that "the plaintiff will allow the defendant to schedule cross-examination of affidavits without delay." A review of the application indicates that the defendant seeks to examine the plaintiffs in support of his PPPA claim. In the Cross-examination Application, the defendant asserts that the counsel for the plaintiffs stated that there is no right to cross examine on affidavits filed by the plaintiffs. The defendant also makes accusations against the plaintiffs' lawyer that he, and the plaintiffs are "thieves and gangsters."
- [55] The entirety of the legal basis provided by the defendant in the Notice of Application is "the inherent jurisdiction of the court."

- [56] The plaintiffs argues that the Court should dismiss the defendants' application to cross-examine. They assert that it is without merit. Further, the plaintiffs argue that the substance of the Notice of Application is deficient because it provides no meaningful legal basis upon which it is grounded.
- [57] I recognize that the defendant is representing himself, and is not a lawyer. However, the lack of legal basis in his Notice of Application is sufficient, on its own, to dismiss his application. Rule 8-1(4)(c) of the Rules requires an applicant to "set out the rule, enactment or other jurisdictional authority relied on for the orders sought and any other legal arguments on which the orders sought should be granted." In addition, the legal basis should include relevant cases relied on and legal analysis: *Mohajer v. Mohagheghi*, 2022 BCSC 1932 at para. 33, citing *Dupre v. Patterson*, 2013 BCSC 1561 at paras. 45-56. The defendant has fallen well short of this requirement. I am satisfied that this deficiency provides sufficient grounds to dismiss the application. It is a fundamental aspect of our system of litigation that parties need reasonable notice of the legal basis for relief sought against them.
- [58] In my view, the defendant's application should be struck on the basis that it discloses no legal basis alone. However, there are other reasons that support its dismissal.
- [59] In email correspondence between the defendant and the plaintiffs' counsel, the defendant appears unwilling to comply with the necessary procedures set out under the PPPA and the Rules, to cross examine on affidavits. Section 8 of the PPPA states that an application must be made in accordance with the Rules, which would include requirements related to cross-examinations on affidavits.
- [60] Appendix C, Schedule 3 of the Rules provides that a witness required to attend an examination must be paid conduct fees in advance. The defendant has expressly refused to comply with the Rules with respect to conduct money required to cross-examine the plaintiffs. In his Notice of Application the defendant writes:
1. The indigent defendant has been informed by opposing counsel Daniel Byma that he has no entitlement under the PPP Act to cross examine plaintiff affidavits unless \$4,000 to \$5,000 per affidavit is paid in advance.
 2. Should these funds not be paid in advance, opposing counsel Daniel Byma has declared the defendant has no right to cross examine lead plaintiff Bir Singh Sandher, his son Prabtaj Singh Sandher, and others including family lawyer Robert Tonsoo, and shall not.
- [61] The plaintiffs also argue that given the defendant's apparent impecuniosity, it is a live question whether he will be able to pay for a court reporter and an interpreter for one of the plaintiffs as required. In my view, these are legitimate concerns and the defendant's own Cross-examination Application suggests that he is unwilling, or unable to comply with the requirements to cross-examine the witnesses. In my view, even though the defendant is a self-represented litigant and more flexibility in respect to the Rules might be available to him, he should not be able to succeed on an application when he overtly acknowledges he is

unwilling to comply with the Rules.

- [62] Even without the procedural requirements of which the defendant has fallen short, I am also of the view that the application appears to have no merit. In the Cross-examination Application, the defendant provides no factual basis to cross-examine the plaintiffs. Nor does he even indicate which of the plaintiffs he seeks to cross-examine. There is simply no rationale provided for why the defendant seeks to cross-examine the plaintiffs as part of his PPPA Application. As part of the factual basis in support of his application to cross-examine the plaintiffs, the defendant writes:

The PPP Act was brought into law to encourage public participation so that the crimes of organized criminals like the Sandhers comes to an end. It was not drafted to assist the largest drug producers and gangsters in British Columbia to avoid following the law while persecuting citizens calling them out.

- [63] In my respectful view, the defendant provides no basis to challenge the affidavits filed by the plaintiffs. Instead, it appears that the defendant is restating his statements that have found to be sufficiently defamatory as to have resulted in the Injunction Order.
- [64] Further, there is a strong inference that the defendant's Cross-examination Application is a tactic to delay the resolution of the PPPA Application. As I will discuss in a moment in describing the nature of PPPA litigation, while the PPPA Application is extant, the plaintiffs are prevented from moving forward with their Defamation Claim. As such, a delay in resolving the PPPA Application and the Defamation Claim is to the defendant's benefit and the plaintiffs' detriment. While delay may not be a sufficient ground to dismiss the defendant's application, my analysis above, coupled with the fact that the defendant chose not to appear at the hearing to argue his application all support dismissal.
- [65] Based on the foregoing, I dismiss the defendant's application to cross-examine the plaintiffs. I will now turn to the defendant's PPPA Application.

C. Defendant's Application to Dismiss the Defamation Claim

- [66] As referenced above, on August 26, 2024, the defendant filed the PPPA Application seeking to dismiss the plaintiffs' Defamation Claim. The plaintiffs now seek to have the defendant's PPPA Application heard and assert that it should be dismissed either due to procedural irregularities or on its merits.
- [67] Before commencing my analysis, I note that the PPPA Application is the defendant's application filed before the Court to have the plaintiffs' Defamation Claim dismissed. As referenced above, the defendant did not appear at either day of the hearing. The plaintiffs argue that the Court should move ahead with adjudicating on the PPPA Application, because while it is extant, the plaintiffs are prohibited from moving forward with their Defamation Claim by operation of the PPPA.

[68] I accept that I should address the PPPA Application, even in the absence of the defendant. As set out above, it is clear that the defendant was aware of this hearing and has decided he will not participate.

[69] For the completeness of the record, I also note that on March 22, 2025, I received communication through Supreme Court Scheduling that the defendant wished to have an appearance to have the Cross-examination Application heard before the Court. By that date, I had heard the three applications that are the subject of these reasons and the matter was under reserve.

[70] On April 2, 2025, through a memorandum to the parties, I refused the defendant's request. In the Memorandum I wrote:

I have reviewed Mr. MacAskill's Request to Appear (RTA) sent to Supreme Court Scheduling on March 22, 2025. I have also reviewed the response to the RTA provided by counsel for Sandher Fruit Packers Ltd. et al.

I will not grant Mr. MacAskill's request to appear. The substantive application was heard before me on two days in January and February 2025, and is currently under reserve. Mr. MacAskill did not attend at either of the days of the application despite being provided proper notice. In my respectful view, Mr. MacAskill decided not to participate in the proceeding and it is not appropriate for him to now bring an application related to the matters currently on reserve before the Court.

Accordingly, I will not grant Mr. MacAskill's request to appear on this matter while the matter is under reserve.

[71] I am satisfied that the defendant was aware that his PPPA Application was to proceed in court commencing on January 27, 2025, and he purposely did not attend. As such, I will adjudicate on the application in the absence of the defendant. In my view, any further delay is prejudicial to the plaintiffs because until this application is determined the plaintiffs do not know if they will be able to move ahead with the Defamation Claim. In other words, if the PPPA Application is granted, the Defamation Claim ends. If the PPPA Application is dismissed, the plaintiffs can move forward with their action. Put bluntly, the Defamation Claim is in a holding pattern, which benefits the defendant. The defendant should not benefit from his refusal to attend Court to have the his own application heard.

[72] In this regard, I also note that after the defendant filed the PPPA Application, he scheduled the PPPA Application to be heard on November 4, 2024. In scheduling the application, the defendant acknowledged the need for expediency under the PPPA, requesting a date from Court Scheduling in "60 days or less". Having the PPPA Application heard expeditiously accords with s. 9(3) of the PPPA which requires that an application for a dismissal order under s. 4 be heard as soon as practicable. Despite these requirements, the defendant did not attend at the application.

- [73] Having determined that I should hear the PPPA Application, I will now turn to my consideration of whether that application should be granted or dismissed.
- [74] In the Application Response filed October 28, 2024, and in submissions before the Court, the plaintiffs assert that there are at least three grounds upon which the Court should dismiss the PPPA Application. First, the defendant has provided no legal basis for his application, thus it fails to meet the requirements under the Rules. Second, the findings Branch J. made in making the Injunction Order are sufficient to support dismissing the PPPA Application. Third, based on the materials before the Court, the Court can determine that the application should be dismissed because it lacks merit.
- i. The PPPA - Legislative Principles
- [75] The PPPA was enacted to counter the use of strategic lawsuits against public participation ("SLAPPS") to silence individuals or organizations from speaking out on issues of public interest. As such, PPPA proceedings are often referred to as Anti-Slapp proceedings. However, in addition to protecting expression on matters of public interest, this mechanism is also designed to ensure that a plaintiff with a legitimate claim is not unduly deprived of the opportunity to pursue that claim. The crux of the test under the PPPA is whether the public interest in an impugned expression outweighs a plaintiff's interest in vindicating their rights through a lawsuit.
- [76] The plaintiffs argue that there is no public interest in the defendants expressions. Instead, the plaintiffs argue that the defendant has targeted the plaintiffs, without apparent reason, with malicious, false, and fabricated statements about the plaintiffs through emails and blog posts, alleging amongst other things that the plaintiffs are terrorists, drug dealers, murderers, human traffickers, fraudsters, and serial polluters. The plaintiffs further assert that the posts and emails are rife with racist, homophobic, threatening, menacing and obscene language and accusations that have no basis in reality and which are clearly intended to abuse and demean the plaintiffs. Moreover, the plaintiffs contend that there is no admissible evidence to support the claims.
- [77] The plaintiffs submit that the intention of the PPPA is to protect valid expressions of public interest, not to create an avenue for individuals to fabricate malicious campaigns against innocent parties. The plaintiffs argue that it would be a manifest miscarriage of justice if the defendant were permitted to succeed on this application and thus, the application ought to be dismissed.
- ii. The Notice of Application for the PPPA Application Fails to Comply with the Rules

- [78] The plaintiff asserts that the PPPA Application should be dismissed for its failure to comply with the Rules. As discussed above in respect of the defendant's application to cross-examine, the plaintiff asserts that the PPPA Application runs afoul of Rule 8-1(4)(c) of the Rules because it has not set out the rule, enactment or other jurisdictional authority relied on for the orders sought and any other legal arguments on which the orders sought should be granted.
- [79] In the PPPA Application, the defendant sets out the entirety of the legal basis for the application as: "The inherent jurisdiction of the Court". While the application in other sections references the PPPA, it provides no section references or authorities to support the defendant's argument.
- [80] Further, while both a procedural and substantive issue, the content of the defendant's affidavits filed in support of the PPPA Application are almost entirely inadmissible. I have reviewed the affidavits filed by the defendant in support of the PPPA Application. I conclude that they contain inadmissible hearsay, inadmissible opinion evidence, subjective descriptions, reactions, opinions regarding motive, speculation, argument, and irrelevant information. This type of evidence is inadmissible when a final order is being sought: *Kennedy v. Kennedy*, 2006 BCSC 190 at paras. 2-10.
- [81] The affidavits are mainly conclusory statements made by the defendant. Indeed, the plaintiffs took the Court to some examples where it appears that the "evidence" provided by the defendant is manifestly false. I also note that the plaintiffs counsel submits, and I agree, that it is difficult to prove a negative. In other words, it is difficult to prove that a person did not do something, in this case, participate in nefarious activities. The plaintiffs however, point to some examples where they believe they have disproven allegations of the defendant which supports a conclusion that his allegations are false.
- [82] The first relates to information provided by the defendant in an affidavit he filed to support the truth of his claims against the plaintiffs. The document purports to be a "police report" reporting on an operation named Operation Valley Cloak from September 2018 (the "Purported Police Report"). I note that in the affidavit, there is no attribution as to the source of the Purported Police Report.
- [83] The Purported Police Report references two helicopters the defendant alleges are leased by the plaintiffs to use in alleged drug smuggling operations. One of the helicopters is identified in the Purported Police Report by its United States Registration Number N214AU.
- [84] The plaintiffs say the allegation that they had that helicopter is manifestly false. First, the plaintiffs provide an affidavit saying they never owned any helicopters. Second, and more concretely, plaintiffs' counsel obtained the records related to the helicopter identified as N214AU and traced the history of that helicopter. The records, provided from the FAA provide that until November 14, 2022, that helicopter was operating in South Korea under Registration number N24199. It was only on November 14, 2022, that the helicopter was repatriated to the United States and given a new U.S. Registration Number of N214AU. As

such, based on the documents put before the Court by the plaintiffs, which appear legitimate and self-corroborated, there was no helicopter in existence in September 2018 with a registration number matching that of the helicopter described in the Purported Police Report. Put simply, this suggests that the Purported Police Report was fabricated sometime after 2022 and made to appear that it was a legitimate police report from 2018.

- [85] Importantly, the Purported Police Report, is one of the few, if only documents that the defendant includes to support the truth of his claims. As referenced earlier, his claims are largely conclusory allegations unsupported by evidence.
- [86] The second example which the plaintiffs assert shows that the defendant's allegations are manifestly false relates to the defendant's statements that Gurtaj Singh Sandher is part of a group called the Khalistan Tiger Force ("KTF"). KTF is a designated terror group in India. The defendant attempts to support this claim by stating that: "[Mr. Sandher] demonstrates this with multiple tattoos shown in multiple photographs. The back of his left hand shows a tiger emblem of the group."
- [87] The plaintiff put into evidence photos of the back of Mr. Sandher's left hand. While he has a tattoo on the back of his left hand, it is of a crown, not a tiger. While this may be a small point, to me it demonstrates the potential harm that mistruths can cause. In this case, a small mistruth about a tattoo, is used to erroneously leverage a larger mistruth about membership in an organization designated a terror group in India.
- [88] I will return to these apparent falsehoods made by the defendant later in these reasons as, in my view, they also support a conclusion that the defendant's PPPA Application lacks merit and the plaintiffs' Defamation Claim has merit.
- [89] In my view, the Notice of Application filed in support of the PPPA Application is woefully deficient. However, I will also consider the other grounds raised by the plaintiffs as to why it should be dismissed.

iii. The PPPA Application Sets Out No Basis to Dismiss the Defamation Claim

- [90] The plaintiffs assert that the PPPA Application sets out no legitimate basis to dismiss the Defamation Claim. In considering this argument, it is helpful to consider the purpose of the PPPA. As mentioned, the legislation was enacted to counter the use of SLAPPS to silence individuals or organizations from speaking out on issues of public interest.
- [91] However, in addition to protecting expression on matters of public interest, this mechanism is also designed to ensure that a plaintiff with a legitimate claim is not unduly deprived of the opportunity to pursue it: *Platnick v. Bent*, 2020 SCC 23 at para. 74; *1704604 Ontario Ltd. v. Pointes Protection Association*, 2020 SCC 22 [Pointes] at paras. 16 and 46; *Todsén v Morse*, 2022 BCSC 1341 at para. 29 [Morse].

[92] The courts have treated this section as a four-step analysis with shifting burdens of proof. In *Rooney v. Galloway*, 2024 BCCA 8 [Galloway] at para. 78 our Court of Appeal set out that the defendant must first establish that the proceeding against them arises from an expression relating to a matter of public interest. Once the defendant has established this, the plaintiff bears the burden on the next three steps and must satisfy the judge of the following:

- 1) there are grounds to believe the proceeding has substantial merit;
- 2) there are grounds to believe the defendant has no valid defence to the action; and
- 3) the harm likely to have been or to be suffered by the plaintiff as a result of the defendant's expression is serious enough that the public interest in permitting the proceeding to continue outweighs the public interest in protecting the defendant's expression.

[93] I will address each of these tests now.

a) Are the Expressions a Matter of Public Interest

[94] At the first step of the analysis, the defendant must establish, on a balance of probabilities, that the underlying proceeding arises from an expression that relates to a matter of public interest. The phrase, "relates to a matter of public interest", should be given a broad and liberal interpretation and should not take into account the merits or motive of the expression, or whether the expression is desirable or deleterious, valuable or vexatious, or whether it helps or hampers the public interest. The expression should be assessed "as a whole", and it must be asked whether the expression pertains to any matter of public interest: *Pointes*, at paras. 26-30; *Lyncaster v Metro Vancouver Kink Society*, 2019 BCSC 2207 at paras. 18-29.

[95] To be of public interest, the subject matter must be shown to be one inviting public attention, or about which the public has some substantial concern because it affects the welfare of citizens, or to which considerable notoriety or controversy has attached: *Pointes*, at para. 28; *Lyncaster*, at para. 26. While there is a public interest in genuine reporting on true facts; false, damaging, maliciously, or recklessly published information serves no positive public purpose. Step one is a threshold question. If the defendant fails to demonstrate the expressions relate to a matter of public interest, the application is dismissed.

[96] In my view, the defendant has failed to establish that the subject matter is in the public interest. While the idea that free speech is critical to the well-being of a democratic and just society is unassailable, in my view, the information the defendant has posted on his Blog is so woefully devoid of facts that it does not satisfy the definition of public interest. Indeed, unsourced and false accusations, may be better characterized as "misinformation". The spreading of misinformation or lies is not in the public interest.

- [97] In this regard, I reiterate the evidence regarding the post on the Blog purporting to provide a police report to support the defendant's allegations. At least some of that information appears to be manifestly false. In the age of conspiracy theories and with how quickly information can be disseminated on the internet, false information has consequences. Ultimately, when the Defamation Claim is adjudicated, the defendant will be able to argue why his posts are not defamatory or do not amount to harassment, but on the evidence before me there is no basis to make such a finding.
- [98] In respect of the consideration of the public interest, the following passage of Branch J. in his reasons for issuing the Injunction Order are of assistance:
- [32] I reach the same conclusion as to irreparable harm and balance of convenience in relation to the alternative defamation tort, based largely on the same analysis. While there is a public interest in genuine reporting on true facts; false, damaging, maliciously, or recklessly published information serves no positive public purpose.
- [Emphasis added.]
- [99] While I find that the defendant has not met the test to establish that there is a public interest to his expressions and so could dismiss the PPPA Application on that basis alone, I will also review the final three steps on which the burden lies with the plaintiffs to show that (1) their Defamation Claim has merit; (2) there are no valid defences by the defendant to the Defamation Claim; and (3) the harm suffered by the plaintiffs outweighs the right of the defendant to provide the expressions.
- b) Steps Two and Three: The Proceeding has Substantial Merit and there are no Valid Defences
- [100] At steps two and three, the court is to apply a "grounds to believe" standard rather than a balance of probability standard. This requires something more than mere suspicion, but less than proof on the balance of probabilities. Thus, a "grounds to believe" standard only requires a basis in both the record and the law for "finding that the underlying proceeding has substantial merit and that there is no valid defence": Galloway, at para. 80.
- [101] A basis in the record will exist if there is a single basis that is legally tenable and reasonably capable of belief to support a finding of substantial merit and the absence of a defence: Galloway, at para. 80. In making this assessment, the Court must be "acutely aware" of the stage of the litigation and not place too high a standard of evidentiary proof: Pointes, at para. 37.
- [102] With respect to the merits, the decision-maker is to consider whether the claim has a "real prospect of success - in other words, a prospect of success that, while not amounting to a demonstrated likelihood of success, tends to weigh more in favour of the plaintiff": Pointes, at para. 49. The plaintiffs are not required to establish that the defendant has no valid defence, only that there are grounds to believe that there is no valid defence. The standard is less than a balance of probabilities. This burden is satisfied where there is a basis in the record and the law for concluding that the defences asserted will not succeed.

- [103] The plaintiffs' claim is for defamation, harassment and internet harassment. However, I need only be satisfied that there are grounds to believe that there is substantial merit and no valid defence to one of the causes of action in which case I have the discretion to allow the plaintiffs' entire claim to proceed.
- [104] In my view, the plaintiffs have satisfied me that there are grounds to believe that there is substantial merit to the claim of defamation and that the defendant has no valid defence to that claim.
- [105] With respect to the merits of the defamation claim, Branch J. determined that there was merit to the plaintiffs' claim and applied the following three-part test for defamation set out in *Morse*, at para. 36:
1. the words complained of were published, meaning that they were communicated to at least one person other than the plaintiff;
 2. the words complained of referred to the plaintiff; and
 3. the impugned words were defamatory, in the sense that they would tend to lower the plaintiffs reputation in the eyes of a reasonable person.
- [106] Indeed, Branch J. held that the defamatory statements refer to the plaintiffs, have been published, and would tend to lower the plaintiffs' reputation in the eyes of a reasonable observer in respect of the claims of defamation. Justice Branch also found that it was "beyond doubt" that there are no sustainable defences raised by the defendant in respect of all of the statement except for those dealing with the Environmental Claims.
- [107] While I need not rule in respect of the plaintiffs' claims of the torts of harassment and internet harassment, because I have found that it is reasonably capable of belief that there is merit to the defamation claim and the defendant has no defence, I note that the defendant in his Response to Notice of Civil Claim pleaded no defence to these specific torts other than he says that his claims against the plaintiffs are true. In any event, I find that the plaintiffs have satisfied the second and third steps of the test to dismiss an application brought under the PPPA.
- c) Step Four: The Harm Suffered by the Plaintiff Outweighs any Public Interest
- [108] The fourth step of the test is whether the harm suffered by the plaintiffs outweighs any public interest. This aspect of the test requires the court to assess what is specifically occurring in the circumstances of the case before the court. In *Pointes* at para. 81, the Court articulated this aspect of the test as allowing the court to "scrutinize what is really going on in the particular case before them."
- [109] In respect of this test, again, Branch J.'s findings at the injunction application is of assistance. Justice Branch found that the plaintiffs had already suffered harm as a result of the claims the defendant made about the plaintiffs.

[110] I have no trouble accepting that the interests of the plaintiffs to proceed with its action outweigh the defendant's right to post the statements. As outlined above, the statements appear outlandish, fabricated, unsupported by admissible evidence and motivated by malice. The plaintiffs should have a right to at the very least move forward and challenge those statements through the Defamation Claim and to seek compensation. Further, the defendant will have his opportunity to defend against the Defamation Claim by, if the evidence is available, bringing admissible evidence to Court to support his allegations that his expressions made on the Blog and elsewhere are true.

iv. Conclusion - The PPPA Application

[111] Based on the foregoing, I am satisfied that the Defamation Claim should not be dismissed pursuant to s. 4 of the PPPA. As such, I dismiss the defendant's PPPA Application. Accordingly, the plaintiff is free to proceed with its Defamation Claim.

IV. Costs

[112] The plaintiffs have been entirely successful in both their application and in responding to the applications of the defendant. The plaintiffs seek special costs from the defendant. In contempt proceedings, special costs are often awarded due to the nature of the applications. Given that the contempt hearing will be heard at a later date I order that the costs of this application in respect of the plaintiffs' application for an arrest warrant for the defendant be determined at the contempt hearing. In this regard, I note that advancing baseless allegations can be considered a form of reprehensible conduct justifying an award of special costs as discussed in *Galloway v. Barski*, 2017 BCSC 719 at para. 42.

[113] In respect of responding to the defendant's PPPA Application and Cross-examination Application, the plaintiffs have been entirely successful and are entitled to their costs payable at Scale B, in any event of the cause, payable forthwith. Although there is no automatic entitlement to costs for a party who successfully opposes a PPPA application, I find that it is appropriate in the circumstances to make an award of costs against the defendant on this application pursuant to s. 7(2) of the PPPA. I ground this finding on what I see as the lack of merit to the defendant's PPPA Application and his conduct during the proceedings, that I have articulated above.

V. Conclusion

[114] I thank counsel for the plaintiffs' for their work in preparing these materials. I also comment that in my view, despite the personal attacks I viewed in the materials before me made by the defendant against the plaintiffs' counsel, counsel remained respectful and also ensured that the Court had a fair understanding of the facts of this case with special regard to the fact that the defendant was representing himself and also was not present at the hearing.

[115] In my view, the professionalism of the plaintiffs' counsel in the face of personal attacks and vitriol represent the highest ideals of professionalism in the practice of law. I commend him for his conduct.

[116] I dispense with the defendant's signature on the order. Further, I am not seized of this matter.

"Gibb-Carsley J."

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