

Court File No. CV-22-00691880-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

Dr. BYRAM BRIDLE

Plaintiff

and

UNIVERSITY OF GUELPH, JEFFREY WICHTEL, LAURIE ARNOTT,
CHARLOTTE YATES, SCOTT WEESE, GLEN PYLE, ANDREW
PEREGRINE, DOROTHEE BIENZLE, AMY GREER, DAVID FISMAN, NICK
DULEY, JANE OR JOHN DOE JUNIOR SCIENTIST

Defendants

NOTICE OF MOTION

The Defendant, David Fisman will make a Motion to a Judge on November 19, 2024, at 10:00 a.m., or as soon after that as the Motion can be heard at the courthouse, 330 University Avenue, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The Motion is to be heard in person.

THE MOTION IS FOR:

- (a) An Order dismissing the action against Dr. David Fisman (“Dr. Fisman”) pursuant to section 137.1(3) of the *Courts of Justice Act*, RSO 1990, c C.43;

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- (b) Costs of this motion and of the action on a full indemnity basis pursuant to section 137.1(7) of the *Courts of Justice Act*;
- (c) Such further and other Relief as to this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Overview

- (a) The plaintiff, Dr. Byram Bridle (“Dr. Bridle”) commenced the action on December 19, 2022, by Statement of Claim;
- (b) The plaintiff, Dr. Bridle, is a veterinarian and Associate Professor of Viral Immunology in the Department of Pathobiology at the Ontario Veterinary College at the University of Guelph;
- (c) The plaintiff, Dr. Bridle is a high-profile critic of the COVID-19 public health response and advice. In 2021, he participated in a series of interviews and speeches and authored a number of articles criticizing the safety and efficacy consensus of COVID-19 vaccines;
- (d) The defendant, Dr. David Fisman, is a physician in Toronto, Ontario specializing in infectious diseases. Dr. Fisman is a professor in epidemiology at the University of Toronto’s Dalla Lana School of Public Health;
- (e) Between March 2020 – August 2021, Dr. Fisman was part of Ontario’s COVID-19 Science Advisory Table. Dr. Fisman regularly provided information and insights to

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the public regarding the COVID-19 pandemic, including through his Twitter account @DFisman;

- (f) Following a radio interview on May 28, 2021 in which Dr. Bridle claimed COVID-19 vaccinations were unsafe, Dr. Fisman posted three tweets in which he expressed his disagreement with Dr. Bridle's claims;
- (g) In his tweets, he directed his followers to the website byrambridle.com, which provides responses to the claims of Dr. Bridle. Dr. Fisman is not the author or creator of the website;
- (h) Dr. Bridle's interview gained international media attention, as the claims he made were contrary to the overwhelming majority of scientific opinion at the time. Dr. Fisman was contacted by a reporter at USA TODAY about Dr. Bridle's claims. Dr. Fisman responded, providing his opinion, which was that Dr. Bridle's claims were not evidence-based;
- (i) Dr. Fisman's intention in posting his tweets and responding to an inquiry from a reporter was to warn against the spreading of misinformation to the public in regards to COVID-19 vaccines;
- (j) Through this action, the Plaintiff claims to have suffered a total of up to \$2,500,000 in joint and several damages from the 11 Defendants, including Dr. Fisman. Dr. Fisman does not personally know Dr. Bridle. He has never met him.

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- (k) The other Defendants are the University of Guelph and several of its senior administrators, including the President and Dean of the Department of Veterinary Medicine, professors, research chairs and human resource specialists;
- (l) The Plaintiff alleges that Dr. Fisman is jointly and severally liable with the other Defendants in the torts of online harassment, conspiracy, interference with economic interest and endangerment of Plaintiff's life;

The SLAPP

- (m) The causes of action asserted against Dr. Fisman arise from:
 - (i) A tweet posted by Dr. Fisman on May 29, 2021;
 - (ii) A tweet posted by Dr. Fisman on May 30, 2021;
 - (iii) A tweet posted by Dr. Fisman on May 31, 2021 (incorrectly dated as June 2021 in the Statement of Claim); and
 - (iv) An email written to a USA TODAY journalist on June 2, 2021 (collectively the "Words Complained Of");
- (n) The Words Complained Of were said during a one week time frame. They were said in response to statements made by Dr. Bridle and were made by Dr. Fisman in good faith and based on a sincere concern about the potential for harm arising from an immunologist spreading misinformation;

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- (o) The Words Complained of relate to matters of profound public interest, being health measures in response to the global COVID-19 pandemic, public health, medical science, and professional ethics;
- (p) The Words Complained Of, consisting of three tweets and one email cannot, at law constitute online harassment, as alleged in the Statement of Claim:
 - (i) The communications and conduct in the Words Complained Of occurred over one week;
 - (ii) Dr. Fisman did not engage in the Words Complained Of maliciously or recklessly. Dr. Fisman's sole purpose in writing the Words Complained Of was to direct the public to evidence and data-based research on vaccine efficacy;
 - (iii) The Words Complained Of are neither outrageous in character or extreme in degree, and do not go beyond all possible bounds of decency and tolerance. On their face, The Words Complained of contain no unfair or inflammatory language;
 - (iv) Dr. Fisman had no intention to cause fear, anxiety, emotional upset or to impugn the dignity of the plaintiff. The Words Complained Of discussed statements made by Dr. Bridle but at no time did Dr. Fisman contact Dr. Bride directly. Instead, the Plaintiff complains that Dr. Fisman harassed him without ever even contacting Dr. Bridle or directing any such statements to him; and

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- (v) The Plaintiff did not suffer any such harm;
- (q) The Words Complained Of were not part of any broader conspiracy with the Defendants or with anyone whatsoever. Beyond bald allegations, there is no evidence pleaded of any conspiracy;
- (r) Further, Dr. Fisman is not the author of any complained of website or the twitter handle @byrambridle.com. Dr. Fisman's sole purpose in tweeting links to that website or twitter handle was to direct his followers to evidence and data-based information on vaccine efficacy;
- (s) The Words Complained Of are not capable of constituting conspiracy, interference with economic interest or endangerment of the Plaintiff's life as alleged in the Statement of Claim;
- (t) The Plaintiff has not plead any facts, which, if true, would prove that Dr. Fisman is liable to him for online harassment, conspiracy, interference with economic interest and endangerment of Plaintiff's life;
- (u) In addition, or alternative, the Plaintiff cannot satisfy the Court that there are grounds to believe that Dr. Fisman has no valid defences, and, as such, this claim must be dismissed;
- (v) The public interest in protecting the expression made through Dr. Fisman's expression significantly outweighs the public interest in permitting the proceeding to continue;

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- (w) Dr. Bridle has suffered no harm to his reputation as a result of the Words Complained Of;
- (x) If Dr. Bridle has suffered any harm in connection with any of the Words Complained Of, which is denied, it is not caused to or contributed to by Dr. Fisman, who has no appointment or affiliation with the University of Guelph, but rather is a result of Dr. Bridle's own conduct as a result of the professional and public criticism that he has received from his statements;
- (y) It is in the public interest to safeguard and encourage Dr. Fisman's speech;
- (z) If this action is allowed to continue, it will have a chilling effect and deter other physicians and members of the public from engaging with matters of public health, and discussing and evaluating misinformation about public health measures;
- (aa) The action is a strategic lawsuit against public participation, as contemplated by s. 137.1 of the *Courts of Justice Act*, intended to intimidate, censor and silence critics of the Plaintiffs and stifle debate about matters of critical public interest;
- (bb) Section 137.1 of the *Courts of Justice Act*;
- (cc) Section 2(b) of the Canadian Charter of Rights and Freedoms;
- (dd) Rule 37 of the Rules of Civil Procedure;
- (ee) Such further and other grounds as the lawyers may advise.

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THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

- (a) The affidavit of Dr. David Fisman, on a date to be sworn; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

June 30, 2023

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AND TO: **JANE OR JOHN DOE JUNIOR SCIENTIST**

Defendant

RCP-E 37B (February 25, 2022)

Dr. BYRAM BRIDLE
Plaintiff

-and-

UNIVERSITY OF GUELPH et al.
Defendants

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

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