



Court File No.:

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

ROCCO GALATI

Plaintiff

- and -

DONNA TOEWS (AKA "DAWNA TOEWS"), KIPLING WARNER, CANADIAN  
SOCIETY FOR THE ADVANCEMENT OF SCIENCE AND PUBLIC POLICY ("CSAPP"),  
DEE GANDHI, JANES AND JOHNS DOE

Defendants

**STATEMENT OF CLAIM**

**TO THE DEFENDANTS:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside of Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, A JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**IF YOU PAY THE PLAINTIFF CLAIMS**, and \$10,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: \_\_\_\_\_, Issued by:

Address of Local Office: 393 University Ave.  
10<sup>th</sup> Floor  
Toronto, Ontario  
M5G 1E6

TO:  
Donna Toews (Aka Dawna Toews)  
10 Garth Street  
Guelph, Ontario  
N1H 2G3  
dawnatoews@hotmail.com

AND TO:

KIPLING WARNER  
Vancouver, BC Canada  
kip@thevertigo.com

AND TO:

CANADIAN SOCIETY FOR THE ADVANCEMENT  
OF SCIENCE AND PUBLIC POLICY  
Unknown Address  
Fax: +1 (604) 256-3060  
Tel: +1 (604) 256-3060  
[reception@covidconstitutionalchallengebc.ca](mailto:reception@covidconstitutionalchallengebc.ca)

AND TO

Dee GANDHI

Address/contact unknown

c/o CANADIAN SOCIETY FOR THE ADVANCEMENT  
OF SCIENCE AND PUBLIC POLICY

Unknown Address

Fax: +1 (604) 256-3060

Tel: +1 (604) 256-3060

[reception@covidconstitutionalchallengebc.ca](mailto:reception@covidconstitutionalchallengebc.ca)

## CLAIM

1. The Plaintiff claims:

General damages as against the Defendants, as follows:

- (a) \$500,000.00, as against the Defendants, Kipling Warner, Dee Gandhi and the Canadian Society for The Advancement of Science and Public Policy, for libel and slander (defamation), and irresponsible publication;
- (b) As against all Defendants, severally and jointly, conspiracy to undermine the Plaintiff's solicitor-client relationships, interference with economic interests and intentional infliction of mental anguish and distress;
- (c) As against all Defendants, severally and jointly, aggravated damages as against the Defendants in the amount of \$250,000.00;
- (d) As against all Defendants, severally and jointly, punitive damages in the amount of \$250,000.00;
- (e) an interim and permanent injunction requiring the retraction, removal, and prominent apology for any and all defamatory publication and/or remarks by the Defendants;
- (f) As against Kipling Warner, Dee Gandhi, and The Advancement of Science and Public Policy, \$100,000.00 for harassment as delineated by the Superior Court of Ontario in *Caplan v Atas, 2021 ONSC 670*;
- (g) an interim and permanent injunction prohibiting the Defendants, or anyone directly or indirectly associated with them, from posting or disseminating defamatory posts on the internet.

- (h) prejudgment interest pursuant to s. 128 of the *Courts of Justice Act R.S.O. 1990 c. C43*; and
- (i) costs of this action on a substantial indemnity basis and such further or other relief as this Court deems just.

## **THE PARTIES**

### **(a) The Plaintiff**

2. The Plaintiff, Rocco Galati, is a senior lawyer, practicing in Toronto, Ontario, who has been practicing law since he was called to the bar in Ontario in 1989. The Plaintiff practices law through his law firm Rocco Galati Law Firm Professional Corporation “duly” incorporated under the laws of Ontario and requirements of the *Law Society Act*.
3. Rocco Galati is a highly regarded and prominent lawyer. He has been a Member of Canadian Who’s Who (since 2011). In 2014 and 2015 he was named one of the Top 25 Influential Lawyers by Canadian Lawyer Magazine. In 2015 he was awarded the OBA (Ontario Bar Association) President’s Award. He was in fact the first lawyer to receive the award.
4. Between May 2015 and May 2019, he served as an elected bencher for the Law Society of Ontario (LSO). Between May 2015 to February, 2021, he also served as a Hearing Panel Member (Adjudicator) of the Ontario Law Society Tribunal (LST).
5. Rocco Galati has litigated, regularly, at all level Courts, including Tax Court, Federal Court (of Appeal), all levels of Ontario Courts, other Provincial Superior Courts, as well as the Supreme Court of Canada. He has litigated in several provinces including Ontario, British Columbia, Alberta, Manitoba, and Quebec. He has, as counsel, well

over 500 reported cases in the jurisprudence. Some of his major cases include: *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817, *Reference re Supreme Court Act, R.S.C. 1985 (Canada)*, *Reference re Section 98 of the Constitution Act, 1867, R. v. Ahmad*, [2011] S.C.J. No. 6 (Toronto 18 Terrorism Case); *Felipa v. Canada*, [2011] F.C.J. No. 135, *Wang v. Canada*, 2018 ONCA 798.

6. Rocco Galati has been asked to speak and has spoken, regularly, at various Law and other Conferences, as well as Law Schools, Universities and High Schools, across Canada from 1999 to present.
7. Rocco Galati is the founder and Executive Director of Constitutional Rights Centre Inc. since its inception in November, 2004.
8. Rocco Galati has authored/co-authored books such as: “*Criminal Lawyer’s Guide to Immigration and Citizenship Law*” (1996), “*The Power of the Wheel: The Falun Gong Revolution*” (2001). He has also produced three Films, “*Two Letters & Counting...*” 2008-2011, written, directed and performed by multi-Genie Award winning Tony Nardi, on the state of art and culture in Canada, and the treatment of “Aboriginal” and “Other” “Canadians” by the Two Solitudes Tribes of Canada, and on the Funding of “Canadian” Art and “Culture”.

**(b) The Defendants**

9. The Defendant, Donna Toews (aka “Dawna Toews”), is a resident of Ontario. She has represented her name to be “Donna Toews” to the Law Society of Ontario, but

represents her name to be “Dawna Toews” on her business profile, social media, and email. The Plaintiff has had no personal connection nor contact with Ms. Toews. Ms. Toews made a complaint to the Law Society of Ontario against the Plaintiff on January 15<sup>th</sup>, 2022, which was forwarded by the Law Society to the Plaintiff on May 19<sup>th</sup>, 2022.

10. The Defendant, Kipling Warner, is a resident of British Columbia. The Plaintiff has had no personal connection nor contact with Kipling Warner. Kipling Warner encouraged and directed Donna Toews (aka “Dawna Toews”) to make the Law Society of Ontario complaint against the Plaintiff and otherwise defamed the Plaintiff, as set out in the within Statement of Claim. Kipling Warner is the Director of the Canadian Society for the Advancement of Science and Public Policy.
11. The Defendant, Dee Gandhi, is the treasurer for the Canadian Society for the Advancement of Science and Public Policy.
12. The Defendant, The Canadian Society for The Advancement of Science and Public Policy, is a not-for-profit organization, established and promoted by Kipling Warner for the purposes of conducting anti-COVID measures litigation in British Columbia.
13. The Defendant(s) Janes and Johns Doe are Defendants unknown to the Plaintiff at this time, but who assisted the named Defendants in the named Defendants’ tortious and actionable conduct against the Plaintiff.

## FACTS

- **Donna Toews (aka “Dawna Toews”)**

14. The Plaintiff does not know Donna Toews (aka “Dawna Toews”).
15. Ms. Toews has never been the Plaintiff’s client.
16. To his recollection, the Plaintiff has never had any direct contact with Ms. Toews.

- **Kipling Warner and Associates**

17. The Plaintiff does not know Kipling Warner. The Plaintiff has had contact, through Mr. Warner’s solicitor, as set out below, to issue a caution with respect to his defamatory statements against the Plaintiff and interfering with the Plaintiff’s solicitor-client relations, including with Vaccine Choice Canada and Action4Canada.
18. The Plaintiff does not know Dee Gandhi. The Plaintiff has never had any direct contact with Mr. Gandhi.

- **Vaccine Choice Canada**

19. Vaccine Choice Canada (hereinafter “VCC”) has been a client of the Plaintiff’s law firm since 2015.
20. The Plaintiff acts on VCC’s behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for VCC, under the instructions of VCC’s Board of Directors, through their president.



21. The Plaintiff has absolutely NO role in their organization whatsoever, except to provide legal services, as described in the *Law Society Act*, as requested, directed, and instructed by their Board of Directors, through their president.

- **Action4Canada**

22. Action4 Canada has been a client of the Plaintiff's law firm since October 2020.

23. The Plaintiff acts on Action4Canada's behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

24. The Plaintiff has absolutely NO role in their organization whatsoever, except to provide legal services, as described in the *Law Society Act*, as requested, directed, and instructed by their Board of Directors, through their president.

25. Neither Ms. Toews, Mr. Warner, nor Mr. Gandhi, are on the Board of Directors of VCC or Action4Canada.

- **Pertinent Chronology leading to Donna Toews' Complaint to the Law Society of Ontario**

26. On or about October, 2020, the Plaintiff was approached by Action4Canada, and other co-Plaintiffs, in British Columbia, for a lawsuit, however the retainer was not yet crystalized.

27. On December 5, 2020, the Defendant Kipling Warner, first contacted Tanya Gaw, the head of the Board of Directors for Action4Canada, indicating that he had organized a "similar" campaign to hers and directed her view his lawsuit's GoFundMe page.

28. On or about December 14, 2020, the Plaintiff received a telephone call from a lawyer from British Columbia, Ms. Polina H. Furtula. This lawyer indicated that she was contemplating legal action against the British Columbia government over the COVID-19 measures imposed there. She requested that the Plaintiff collaborate with her, owing to his expertise in constitutional law and proceedings against the Crown. Ms. Furtula's client(s) were Kipling Warner and his organization, The Canadian Society for The Advancement of Science and Public Policy.
29. The Plaintiff respectfully declined, and advised Ms. Furtula that he had been approached by a British Columbia group (Action4Canada) and other plaintiffs, and had, in principle, agreed to act for them in a challenge to the COVID-19 measures, once a retainer crystalized.
30. In January 2021, the Plaintiff began working on the Notice of Claim (Statement of Claim) for Action4Canada and other co-Plaintiffs.
31. On January 27, 2021, the Defendant, Dee Gandhi, Kipling Warner's colleague, and treasurer of Canadian Society for the Advancement of Science in Public Policy, sent an independent journalist, Dan Dicks from Press for Truth, a defamatory email about the Plaintiff. This journalist forwarded that email to the Plaintiff's client, Action4Canada. The email indicated that the Canadian Society for the Advancement of Science in Public Policy had filed their statement of claim, but then made defamatory remarks against the Plaintiff and the case brought by the Plaintiff, asserted that the Defendants had brought their case first and therefore would have "carriage of the matter", and then asked to assist them in soliciting donations on their behalf for their legal proceeding.

32. On January 29, 2021, the Plaintiff received a letter from Ms. Furtula indicating that she represented the Canadian Society for the Advancement of Science in Public Policy, that she had filed on behalf of her client(s) and therefore the Plaintiff could not file any proceedings on behalf of his clients.
33. On February 3<sup>rd</sup>, 2021, the Plaintiff responded to Ms. Furtula's letter indicating her client did not have exclusive monopoly to litigation against the Crown. The Plaintiff also, in the same response, issued a warning to Ms. Furtula about Mr. Warner's defamatory conduct against the Plaintiff.
34. From January 2021 and onward, the Defendants, Kipling Warner, his organization Canadian Society for the Advancement of Science in Public Policy, and his associates from the Canadian Society for the Advancement of Science in Public Policy, including Dee Gandhi, continued defaming the Plaintiff to the Plaintiff's clients, and others.
35. In or around June, 2021, the Defendants posted defamatory content about the Plaintiff on the Canadian Society for the Advancement of Science in Public Policy's webpage, which content disparaged the Plaintiff, and made further defamatory comments about the Plaintiff and the legal action(s) for which he had been retained. As a result, the Plaintiff's clients, Action4Canada and VCC, began receiving messages from their members concerned about the Defendants' statements.
36. On August, 2021, the Plaintiff finalized and issued the Action4Canada, et al, Notice of Claim (Statement of Claim) in the British Columbia Supreme Court. This claim was on behalf of various Plaintiffs, Action4Canada being one, in British Columbia Court File No.: BCSC NO. VLC-S-S-217586.

37. From August to Christmas, 2021, the Defendants to this Statement of Claim, on behalf of Action4Canada and others, dragged their heels over whether they would accept service for various Ministries and officials and requested an indulgence past the normal 30-day deadline, to respond, which the Plaintiff granted. They also indicated that they wished to bring an application (motion) to strike. The Plaintiff asked that they do so as soon as possible, under the instructions of his clients.
38. By Christmas day, 2021, the Defendants had not brought their motions to strike. Over Christmas, the Plaintiff became very ill. On December 25<sup>th</sup>, 2021, the Plaintiff was bed-ridden. On January 2<sup>nd</sup>, 2022, the Plaintiff was admitted for a critical illness to the ICU in hospital.
39. After being admitted to hospital in January 2, 2022, the Plaintiff entered a very serious and life-threatening 11-day coma during which coma the Plaintiff came, three (3) times, under a minute from being declared dead. Through the grace of God, he survived. On or about January 13<sup>th</sup>, 2022, the Defendants, in British Columbia Supreme Court file no.: VLC-S-S-217586, brought their motions to strike returnable February 22, 2022. Meanwhile, while the Plaintiff was in a coma and incapacitated under s.37 of the *Law Society Act*, he remained in a public hospital until his discharge on January 22, 2022. When he was no longer critical, but still acute, he was immobile and still required one-on-one nursing and acute medical care. He was discharged as a patient from a public hospital and he transferred himself to recover in a private medical setting with 24/7 care.
40. The Plaintiff did not return home until March 2, 2022, to continue recovering. He still has not regained full recovery at present.

41. The motion to strike, which had been set for February 22, 2022, in British Columbia, was adjourned by the Plaintiff's office to May 31<sup>st</sup>, 2022 in the hopes that he would be sufficiently and competently capable of arguing the motion to strike via zoom-link. The Plaintiff was granted permission to appear by zoom-link and argued the motion on May 31<sup>st</sup>, 2022. The motion(s) to strike were heard on May 31<sup>st</sup>, 2022 and the Court has reserved its decision.
42. While the Plaintiff lay in a coma, in January, 2022, the Defendant Kipling Warner was conspiring and encouraging Donna Toews (aka "Dawna Toews") to file a complaint against the Plaintiff with the Law Society of Ontario.
43. On January 15<sup>th</sup>, 2022, Ms. Toews filed her complaint to the Law Society of Ontario, which was forwarded to the Plaintiff on May 19<sup>th</sup>, 2022. The complaint alleged that the Plaintiff "misled" and "failed to act with integrity" because Ms. Toews, who had allegedly made a \$1,000 donation, "in her husband's name", to the Plaintiff's clients, VCC and Action4Canada, to support their litigation, had not been personally apprised and updated by the Plaintiff, as well as not been invited to those organizations' members-only meetings, and complained about the pace of the litigation, notwithstanding that:
  - (a) Donna Toews (aka "Dawna Toews"), has never been a client of the Plaintiff;
  - (b) The Plaintiff has never met with, been contacted by, nor ever had any communications with Donna Toews (aka "Dawna Toews"),

(c) The Plaintiff has had absolutely no role in his client (organization) and is not privy to their fundraising efforts nor how they spend their money apart for his legal services;

(d) The Plaintiff has no role in organizing any of his clients' members-only meetings.

The Plaintiff states that the substance of the complaint by Donna Toews (aka "Dawna Toews"), directed and encouraged by Kipling Warner, simply parrots the defamatory remarks made by the other three co-Defendants.

- **Donna Toews (aka "Dawna Toews") and Kipling Warner**

44. While in hospital and in a coma, which was widely publicized (in fact false obituaries claiming the Plaintiff was dead emerged and ones are still online), Kipling Warner was in communication with Donna Toews, via email, on how to make a complaint to the Law Society about the Plaintiff.

45. Kipling Warner has also, and recently, orally communicated to a person, who does not want to be identified due to fear of Mr. Warner's military past and self-professed prowess as a computer hacker, that "I want to see to it that Rocco Galati is disbarred and charged with Fraud". Kipling Warner, in discussions with the President of VCC, Ted Kuntz, insisted that because he (Kipling Warner) "filed first", that the Action4Canada British Columbia claim, which VCC supported, had to be withdrawn, and all donations to Action4Canada be returned, with the implication that the donations be forwarded to him, Kipling Warner, to support his litigation instead.

46. Mr. Warner is under the delusion that he can claim, along with his “Canadian Society for the Advancement of Sciences in Public Policy” (“CSASPP”) exclusive proprietary rights to litigate the covid-measures in British Columbia. In pursuit of this he goes to all ends.
47. Mr. Warner, furthermore continued to make defamatory statements against the Plaintiff on CSASPP’s website, <https://www.covidconstitutionalchallengebc.ca>. The irony is that the British Columbia Supreme Court struck Mr. Warner as a Plaintiff in one of his cases, for lack of standing, in British Columbia Supreme Court file No.: S-2110229.
48. The Plaintiff states that the Defendants, Mr. Warner and Mr. Gandhi, personally, in their email to the Plaintiff’s client, and through their Canadian Society for the Advancement of Sciences in Public Policy website, <https://www.covidconstitutionalchallengebc.ca>, uttered and published defamatory statements against the Plaintiff, namely:

- (a) In his email to an independent journalist, dated February 1, 2021, Mr. Gandhi wrote, as follows:

Hope you are doing well. I just wanted to update you on the fact that the Canadian Society for the Advancement of Science in Public Policy (CSASPP) has filed their pleadings against the Crown and Bonnie Henry (Provincial Health Minister) as of Jan 26th, 2021. Please see link: <https://www.scribd.com/document/492237670/Notice-of-Civil-Claim>  
You are welcome to share this with anyone and everyone.

This is our certificate of Incorporation :  
<https://www.scribd.com/document/492256545/CSACPP-Certificate-of-Incorporation>

Now that we have started the litigation process, we are still in need of Funding. Action 4 Canada has still not filed with Rocco. **Legally at this point Rocco can't really file in BC anymore. The case law is that for class actions, it's the first to the court house that generally has**

**carriage of the file. If you would be so kind to share with everyone so to help the cause.**

<https://www.gofundme.com/f/bc-supreme-court-covid19-constitutional-challenge>

this might interest you further.

Here are some talking about regarding Action 4 Canada and Rocco

(1) Rocco isn't licensed to practice here in BC. He can always be retained in Ontario and in turn retain counsel in BC. But then you are paying for two law firms. You can verify that he is not licensed to practice here in BC at this page:

<https://www.lawsociety.bc.ca/lcbc/apps/lkup/mbr-search.cfm>

(2) The lawyer Rocco wishes to retain here in BC is named Lawrence Wong. He specializes in immigration law. He was sanctioned in 2010 for his conduct by a Federal Court judge and fined. See for yourself:

<http://canlii.ca/t/2bz73>

(3) A Federal Court judge wrote in his judgment a few years ago that Rocco was found to have excessively billed for his time:

<<http://canlii.ca/t/gfl0p#par7>>

**(4) The same judgment questioned Rocco's competency in constitutional law:**

<<http://canlii.ca/t/gfl0p#par9>>

**(5) Rocco is not a "constitutional law" lawyer. There is no such professional designation in Canada, nor in particular in BC. That's not to say, however, that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. But in Rocco's case his area of expertise is tax law.**

<<https://tgam.ca/3n8Zuyo>>

(6) Every lawyer I know that has reviewed **Rocco's Ontario pleadings said it was very poorly drafted. It will most likely get struck and never make it to trial to be heard on its merits.** The reason being is he brings in all kinds of other topics that aren't necessary (Gates, 5G, vaccines, etc.) to obtain the order that he wants. This is how it likely would be struck:

[http://canlii.ca/t/8lld#sec9\\_5](http://canlii.ca/t/8lld#sec9_5)



**(6) Rocco wants far too much money to get started. This seems in line with (2);**

(7) Nothing has been accomplished in Ontario since Rocco filed around six months ago. The defendants haven't even filed replies, despite the option to apply for a default judgment being available for the majority of that time;

(8) Even if he won in Ontario, it wouldn't have any direct bearing on us here in BC because health care is under a provincial mandate under s 92(13) of the constitution. In other words, the Ontario Superior Court of Justice has no jurisdiction over what cabinet ministers do in BC.  
See:

<<https://bit.ly/2Li6Baw>>

(9) We are (CSASPP) a non-profit, non-partisan, and secular society. We are legally required to have a certain level of accounting controls and transparency

Thank you Dan, and I look forward to your response and your help.

(b) In or around June 2021, the Canadian Society for the Advance of Sciences in Public Policy, Mr. Kipling and the other directors of the Society, have posted the following, about the Plaintiff:

**Are you affiliated with Rocco Galati? If not, why?**

**We receive communications regularly from Mr. Galati's past donors with concerns.** We are asked what became of the substantial funds that the community raised for him or his third-party fundraising arms. We do not have any information, were not involved in raising funds for either, nor did we ever seek to retain Mr. Galati. **If you have concerns about his conduct, any member of the general public can submit an electronic complaint to the Ontario Law Society to initiate a formal investigation.**

We are not affiliated with Mr. Galati. There are many reasons.

Mr. Galati is not licensed to practise law in British Columbia for any extended period of time. He can always be retained in Ontario, and in turn retain counsel in British Columbia. This is not unusual.

However, then you are paying for two law firms. Anyone can verify whether a lawyer is licensed to practise law in British Columbia here.

We were advised directly by Mr. Galati himself that the lawyer he wished to retain in British Columbia is Lawrence Wong. Mr. Wong was personally sanctioned in 2010 for his conduct by a Federal Court judge with a fine.

A Federal Court judge noted in his reasons for judgment that some of Mr. Galati's billings were "excessive and unwarranted" in a separate proceeding. The same judge declined to award the full amount sought by Mr. Galati for his legal fees in that constitutional proceeding. The outcome has been discussed by other lawyers.

Mr. Galati is sometimes described by his followers as our nation's "top constitutional law" lawyer, yet there is no such professional designation in Canada, nor in particular in British Columbia. That is not to say that a lawyer cannot have an area of expertise like personal injury, strata, mergers and acquisitions, class actions, and the like. According to Mr. Galati, he studied tax litigation at Osgoode Hall. The Globe and Mail reported Mr. Galati "makes his money from doing tax law, not constitutional cases."

Mr. Galati filed a COVID-19 related civil proceeding in the Superior Court of Justice in Ontario on 6 July, 2020. To the best of our knowledge, as of 30 October, 2021, none of the twenty-one named defendants have filed replies, despite the plaintiff being at liberty to apply for a default judgment for the majority of that time. In an interview published 2 September, 2020, Mr. Galati claimed he intended to do his best to have an interlocutory mask injunction application heard before the Christmas holidays of 2020. As of 11 June, 2021, we are not aware of any scheduled hearings and no orders appear to have been made.

49. The Plaintiff states that neither Mr. Warner, nor the website, <https://www.covidconstitutionalchallengebc.ca>, constitute a "broadcaster" under the *Libel and Slander Act* and, in any event, are not entitled to Notice under *s.5 of the Libel and Slander Act*, as they do not comply with the requirements of s.8 of that *Act*, in providing a prominent address for service.

- **Defamation**

50. The Plaintiff states, and the fact is, that the above-cited statements are/were false, and untrue statements, and further, by innuendo, defamatory and caused damage to the Plaintiff in that they tended to lower the esteem and reputation of the Plaintiff in the fair-minded members of the community, which statements were also designed to interfere with the Plaintiff's contractual obligations and economic interests, for all of which he has suffered, and continues to suffer, considerable financial damages and damage to reputation for the malicious, untruthful, and defamatory statements.

51. These untrue and false statements were malicious, irresponsible, negligent, and uttered with malicious intent, in that they attempt to assert and convince the public that the Plaintiff is *inter alia*:

- (a) Violating the rules of conduct of his profession;
- (b) Being immoral;
- (c) Misappropriating donors' funds intended to for the legal proceeding;
- (d) Not being licensed to practice law, and therefore charging twice (charging for a British Columbia law firms legal fees as well as his own);
- (e) Excessive and unwarranted billing (the Defendants misapply a case here by insinuating a judge had found that the Plaintiff had charged his clients too much in a legal proceeding, when actually the case was about the Plaintiff trying to recuperate the costs of a proceeding that he had conducted out of his own pocket, which he had brought against the government in his own name,

- where he had not charged anyone legal fees, and which case he had been successful and therefore was entitled to costs, the subject of that decision);
- (f) Insinuating that “other lawyers” did not hold him in high esteem;
  - (g) Making his money in other areas of law and therefore not being a constitutional lawyer;
  - (h) Of purposely delaying the legal proceedings or of purposely delaying taking further steps in the legal proceeding;
  - (i) conning innocent people/clients out of their money;
  - (j) Representing his client for subversive motives and not for the public good;
  - (k) Intentionally failing to advance the COVID-19 cases on which he has been retained.

These statements are also saturated with defamatory innuendo that the Plaintiff is incompetent.

52. The Defamatory statements were published across multiple platforms and widely circulated by the Defendants and others, as well as specifically directed to the Plaintiff’s clients.
53. Neither the Defendant, Kipling Warner, nor any representative of Canadian Society for the Advancement of Science in Public Policy, including the treasurer, Dee Gandhi, provided the Plaintiff the opportunity to answer the allegations before publishing the defamatory statements.

- **Conspiracy**

54. The Plaintiff states and fact is, that the Defendants, Donna Toews (aka “Dawna Toews”), Kipling Warner, Dee Gandhi, the Canadian Society for the Advancement of Science in Public Policy, as well as other “duped co-conspirators” engaged in the actionable tort of conspiracy to undermine the Plaintiff’s solicitor-client relationship with his clients, which relationships are statutorily, at common law, and s.7 of the *Charter* protected, as well as conspired to interfere with the Plaintiff’s economic interests with his clients, pursuant to civil conspiracy as set out by the Supreme Court of Canada, in, inter alia, *Hunt v. Carey Canada Inc., 1990 CanLII 90 (SCC), [1990] 2 SCR 959*, which set out that the tort of the conspiracy comprised of the following features:

- (a) In the first place there will be an actionable conspiracy if two or more persons agree and combine to act unlawfully with the predominating purpose of injuring the plaintiff.
- (b) Second, there will be an actionable conspiracy if the defendants combine to act lawfully with the predominating purpose of injuring the plaintiff.
- (c) Third, an actionable conspiracy will exist if defendants combine to act unlawfully, their conduct is directed towards the plaintiff (or the plaintiff and others), and the likelihood of injury to the plaintiff is known to the defendants or should have been known to them in the circumstances.

55. The Plaintiff further states that the Defendants further conspired to engage in actionable abuse of process through the Law Society complaint.

- **The Law Society Complaint as an Abuse of Process**

56. The Plaintiff further states that Donna Toews’ Law Society complaint constitutes an actionable abuse of process in law, brought in bad faith, and absence of good faith, as

set out by the facts pleaded above and the jurisprudence in that, under the jurisprudence, abuse is made out where:

- (a) the plaintiff must be a party to a legal process initiated by the Defendant, in this case a complaint to the Law Society of Ontario;
- (b) the legal process must have been initiated for the predominant purpose of furthering some indirect, collateral and improper objective;
- (c) the defendant took or made a definite act or threat in furtherance of the improper purpose; and
- (d) some measure of special damage has resulted.

The Plaintiff states that Ms. Toews, Mr. Warner, and Mr. Gandhi, and the Canadian Society for the Advancement of Science in Public Policy, took and made acts, as well as post-facto statements in furtherance of their improper purpose of trying to shut down the Action4Canada et al, lawsuit in British Columbia, and improperly attempting to redirect funds raised by Action4Canada, to the Defendants, Kipling Warner, Dee Gandhi, and the Canadian Society for the Advancement of Science in Public Policy. All this damaged and continue to damage the Plaintiff by way of reputation and his solicitor-client relationships.

57. The Plaintiff further states that the Defendants, in their actions knowingly intended, and in fact inflicted, mental anguish and distress through their actions against the Plaintiffs, all of which go to punitive damages.

- **Interference with Economic Interest**

58. The Plaintiff states that, through their conduct and actions, the Defendants have engaged in interference with the Plaintiff's economic interests as set out by the facts, pleaded above, and set out by the jurisprudence in that:

- (a) the Defendants intended to injure the plaintiff's economic interests;
- (b) the interference was by illegal or unlawful means; and
- (c) the Plaintiff suffered economic harm or loss as a result.

The Plaintiff states that the actions of the Defendants were intended to injure the Plaintiff's economic interests in his clientele, through defamatory and other tortious and unlawful interference and means as set out above, which resulted in economic harm and loss to the Plaintiff, through his reputation, and client base.

- **Online Harassment**

59. The Plaintiff further states that, in addition to defamation, the conduct of the Defendants, Kipling Warner and his CPSAPP, further constitutes the newly-recognised tort of (online) harassment as delineated by the Ontario Superior Court in *Caplan v Atas 2021 ONSC 670*.

60. The Plaintiff states, and the fact is, that the Defendants have engaged in:

- (a) Repeated and serial publications of defamatory material;
- (b) Which defamatory material was not only designed and directed at the Plaintiff, but further designed to cause the Plaintiff further distress by targeting persons

the Plaintiff cares about, namely his clients and his clients' supporters, so as to cause fear, anxiety and misery;

As set out by the Superior Court in **Caplan v Atas 2021 ONSC 670**, at paragraph 68.

• **Liability of The Defendants and the Relief Sought**

61. The Plaintiff states that the Defendants are liable to the Plaintiff, jointly and severally, as set out in paragraph 1 of the within statement of claim, for the instances and reasons pleaded above.
62. The Plaintiff therefore seeks the relief set out in paragraph 1 of this statement of claim.
63. The Plaintiff further pleads any and all documents mentioned in this statement of claim as documents referred to in the pleadings herein.

The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 28<sup>th</sup> day of June, 2022.

  
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Lawyer for the Plaintiff, on his own behalf



Court File No.:

Rocco Galati  
Kipling Warner et al.

-and-

Plaintiff

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT TORONTO**

**STATEMENT OF CLAIM**

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