

Court File No. CV-24-00715344-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

DR. KULVINDER GILL

Plaintiff

-and-

**ROCCO GALATI and ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION**

Defendants

**STATEMENT OF CLAIM
(Notice of Action Issued February 23, 2024)**

CLAIM

1. The Plaintiff, Dr. Kulvinder Gill, claims against the Defendants, Rocco Galati and Rocco Galati Law Firm Professional Corporation as follows:
 - a. General and special damages for professional negligence, breach of fiduciary duty and/or breach of contract in the amount of \$1,500,000;
 - b. General damages for pain, suffering and loss of reputation in the amount of \$250,000;
 - c. Aggravated and/or punitive damages in the amount of \$250,000;
 - d. Prejudgment and postjudgment interest in accordance with sections 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - e. The costs of this proceeding on a substantial indemnity basis, plus all applicable taxes, and;

- f. Such further and other relief as the plaintiff may advise and as this Honourable Court may seem just.

A. The Parties

2. The plaintiff, Dr. Kulvinder Kaur Gill (“**Dr. Gill**”), is a specialist physician practicing at two allergy, asthma and clinical immunology clinics in Brampton and Milton. She completed significant post-graduate training in pediatrics, and allergy and clinical immunology, including scientific research in microbiology, virology and vaccinology at the Public Health Agency of Canada’s highest security level biosafety laboratory in Canada, and has published extensively in these areas.

3. Dr. Gill has been active in her self-regulating profession, having been on the elected delegate council, and serving as an elected district chair to council, of the Ontario Medical Association (“**OMA**”) and heavily involved in Concerned Ontario Doctors (“**COD**”), a non-profit advocacy organization of frontline physicians, which has, amongst other issues, advocated regarding transparency issues at the OMA and the escalating cuts to frontline health care.

4. The defendant, Rocco Galati, is a lawyer licensed to practice law in the Province of Ontario. At all material times, Galati practiced law, *inter alia*, in the field of civil litigation and held himself out as being an expert or competent lawyer in the field of defamation law, professional discipline, and civil litigation more broadly.

5. The defendant Rocco Galati Law Firm Professional Corporation is Galati’s professional corporation and law firm, and the entity through which he practices law. At all material times, the Professional Corporation held itself as being an expert law firm or competent law firm in the field of defamation law, professional discipline, and civil litigation more broadly.

6. Collectively, Mr. Galati and the Professional Corporation are referred to as “**Galati**”.

B. The Retainer

7. During the summer of 2020, Dr. Gill required legal assistance with two related matters, both involving online X (formerly known as Twitter) posts relating to COVID-19. She had considered hiring different counsel to deal with a defamation angle to these posts and separate

counsel to deal with public complaints made to the College of Physician and Surgeons of Ontario (“CPSO”) related to those posts arising from a targeted public campaign.

8. In August 2020, Dr. Gill placed various calls to lawyers, including Galati, to see if they would be able to provide advice and represent her in either of the two potential matters.

9. Galati recommended that Dr. Gill retain him to deal with both matters. He represented that he (and his junior associate, Samantha Coomara) had significant experience dealing with defamation matters and with disciplinary issues involving the CPSO. He even discouraged Dr. Gill from retaining other potential lawyers whom she had spoken with, advising that they had limited experience, conflicts of interest, and/or that they had never litigated in Court.

10. In September 2020, based on Galati’s representations and assurances, Dr. Gill and Galati entered a solicitor-client relationship. Galati was retained to deal with both the defamation and CPSO matters. Galati was also interested in a potential defamation claim relating to expressions that had been made by Dr. Angus Maciver in 2018 (the “Maciver expressions”).

11. A colleague and friend of Dr. Gill’s, Dr. Ashvinder Kaur Lamba (“Dr. Lamba”), also independently retained Galati around the same time. She was also a target of the Maciver expressions. Although the claims were based on the same expressions, Dr. Gill and Dr. Lamba instructed Galati independently. Dr. Lamba also retained Galati to deal with a CPSO complaint that had been made against her.

12. The terms of the solicitor-client relationship were proposed by Galati. He told Dr. Gill that he would bill her to a maximum amount (which would cover both the defamation matter and the CPSO matters), which would be payable at the conclusion of the matters. He indicated that his firm would also receive 25% of any amount Dr. Gill received in the defamation matter. Alternatively, Galati proposed that Dr. Gill pay his alleged regular hourly rate of \$1,850.

13. Galati did not provide a written retainer setting out the above terms until January 2021, despite the repeated requests of Dr. Gill. When Dr. Gill signed the January 2021 retainer, she understood that the written retainer covered both the defamation and the CPSO matters in accordance with the verbal agreement that had previously been made.

14. On or about January 28, 2021, Galati prepared a retainer agreement which set out the terms of the engagement, Specifically, the agreement provided that Galati would act in a manner to advance Dr. Gill's interests in a Superior Court proceeding. Later, Galati would tell Dr. Gill that this written retainer agreement purportedly only dealt with the defamation matter.

15.

C. The Anti-SLAPP Motions and the CPSO Proceedings

16. During the Fall of 2020, Galati corresponded with the CPSO on Dr. Gill's behalf and was responsible for protecting her interests in those proceedings.

17. In parallel, Galati took steps with respect to the defamation matter. At Galati's request, Dr. Gill sent him all the potentially defamatory posts that she identified on the internet. Galati explained that he would go through the posts and determine which ones were worthy of taking legal proceedings against. Dr. Gill relied on Galati's advice in this regard.

18. In or about October 2020, Galati prepared and sent several Notices of Libel to several defendants pursuant to the *Libel and Slander Act*. He advised Dr. Gill that it was his opinion that all of the defendants to whom Notices were sent had published expressions that were defamatory and malicious.

19. Galati's objective in naming approximately twenty-three separate defendants (the "Defamation Defendants"), was to bring as many people to the table as possible in order to leverage the largest number of settlements and/or damages awards. Galati justified naming so many defendants by telling Dr. Gill that they were all "co-conspirators". He said that doing so made the case against them stronger.

20. In reality, and unbeknownst to Dr. Gill, Galati was promoting his own self-interests in pursuing such significant litigation against a large number of defendants. Galati had strong ideological beliefs concerning government responses to the COVID-19 pandemic. Galati initiated several pieces of litigation, including the claims against the Defamation Defendants, to raise his own notoriety as a crusader against these public health measures in response to the COVID-19

pandemic. In doing so, he placed his own interests before those of Dr. Gill. Until recently, Dr. Gill was in the dark about Galati's other motivations.

21. Galati was also interested in pursuing claims against many defendants as he personally benefited from any settlements that were reached due to the partial contingency retainer agreement he put into place. Until recently, Dr. Gill was in the dark about Galati's personal interest in pursuing the litigation in the manner he had recommended.

22. Around the same time as Dr. Gill was determining whether to proceed with the defamation action, the CPSO advised Galati of an investigation against her under s. 75 of the *Health Professions Procedural Code* related to public complaints made against her online communications. Galati failed to advise Dr. Gill of this investigation in a timely manner.

23. On or about October 22, 2020, one of the potential Defamation Defendants replied to a Notice of Libel served by Galati. The lawyer advised that his client would be bringing a motion pursuant to s. 137.1 of the *Courts of Justice Act* (also known as an anti-SLAPP motion) should it be served with a Statement of Claim. This response was not shared with Dr. Gill until after the anti-SLAPP motions (outlined below) were granted by Justice Stewart in February 2022.

24. There are potentially other responses that were received from the Defamation Defendants that were never shared with Dr. Gill. She came to learn after changing counsel, as explained below, that there were multiple communications between Galati and opposing counsel that were not brought to her attention during Galati's retainer.

25. At no point in time prior to being advised that the Defamation Defendants had brought the s. 137.1 motions did Galati advise Dr. Gill of the risk that the Defamation Defendants could bring these motions, whether these motions had merit, the chances that these motions could succeed, nor of the significant full indemnity costs consequences if they were successful in bringing these motions.

26. Dr. Gill was never provided with a choice of whether to proceed with claims against the various Defamation Defendants on whom Notices of Libel had been served. Had Dr. Gill been advised of the potential cost consequences (and/or had she been advised of the responses received from the potential defendants), she would not have pursued the claims.

27. During the month of December 2020, Galati prepared a Statement of Claim against all the defendants against whom Notices of Libel had been served. He named both Dr. Gill and Dr. Lamba as plaintiffs in that claim. Although certain drafts were shared with Dr. Gill, she did not review or approve the final version of the Statement of Claim before it was filed with the Court.

28. The Statement of Claim prepared by Galati was grossly deficient.

29. In fact, the Statement of Claim was heavily inspired by a form of “template” claim that Galati used in multiple pieces of litigation involving issues related to the harms of the government response to the COVID-19 pandemic.

30. Shortly after the Statement of Claim was filed, Dr. Gill inquired with Galati about the significant amounts sought in the claims. Galati explained that the quantum of damages identified in the Statement of Claim did not matter, as it was only a pleading, and did not need to be justified.

31. Prior to filing the Statement of Claim, Galati failed to explain to Dr. Gill and Dr. Lamba how each of their respective claims in the proceeding would be determined, or what their respective exposure was to Galati’s fees or the potential costs of the Defamation Defendants.

32. Dr. Gill also inquired with Galati about any response received from the various defendants. Galati failed to report as to any responses received to the Notices of Libel and Notices of Intent to Defend. Instead, Galati consistently stated to Dr. Gill that he had received no response to the legal proceedings.

33. Around the same time as the Statement of Claim was filed, Amir Attaran, a professor at the University of Ottawa, posted on X about Dr. Gill. Galati recommended to issue a claim against Attaran, which is subject of a separate anti-SLAPP motion presently before the Superior Court of Justice.

34. Following service of the Statement of Claim in the Attaran matter, until Galati got off record (detailed below), he provided no update whatsoever to Dr. Gill about the proceeding. In fact, there had been communications with opposing counsel and Attaran had brought an anti-SLAPP motion. It was only upon retaining new counsel that Dr. Gill learned of these developments.

35. In January and February 2021, and at various other points after these dates, Galati used his representation of Dr. Gill and Dr. Lamba to increase his own notoriety and raise funds for himself.

36. For example, Galati arranged and/or promoted a panel discussion about the harms of the government response to the COVID-19 pandemic, which was broadcasted by a media entity called Wholehearted Media, which Galati purported was an independent media group. Later, Dr. Gill would learn that Wholehearted Media was co-founded and controlled by Galati and that he profited off its revenues.

37. On January 6, 2021, using his own X handle (@roccogalatilaw), Galati tweeted about the claim he had filed on Dr. Gill's behalf, highlighting that she was suing people who had defamed her "for exercising her constitutionally protected right to freedom of speech and expression, re science and medicine of Covid-measures". His X page includes a banner of the "Constitutional Rights Centre" (the "CRC") and describes him as the Executive Director and Founder of that organization, with a hyperlink to its website.

38. On or about February 27, 2021, at a meeting at Galati's offices to discuss the CPSO proceedings, Galati mentioned in passing to Dr. Gill that several of the Defamation Defendants had proposed to bring anti-SLAPP motions. He advised that a case conference had been scheduled for March 2021, but that the motions were doomed to fail as the Defamation Defendants' expressions were not in the public interest. Dr. Gill was never provided with a report of what occurred at the case conference (if one did in fact occur). In fact, despite requests for updates, Galati failed to answer all Dr. Gill's inquiries until around April 11, 2021.

39. In March 2021, after the CPSO issued cautions against Dr. Gill's tweets, Galati prepared a second written retainer purporting to deal with the CPSO matter only. At that time, he advised Dr. Gill that his costs were too high and that she would need to pay for his services with respect to the CPSO matters separately from the defamation matter. Galati imposed this new requirement at a time were there were impending deadlines to appeal the CSPO decisions. Dr. Gill had no choice but to continue with Galati.

40. Around that same time, unbeknownst to Dr. Gill and without her prior permission, Galati referred to the CPSO cautions against Dr. Gill in a newsletter and public statement by the CRC to seek donations to his organization. Later, Dr. Gill learned that Galati had raised more than \$1M

through donations received by the CRC, in part through campaigns that promoted Galati's representation of Dr. Gill.

41. Also in March 2021, Galati launched a judicial review of certain decisions made by the CPSO. This proceeding was later struck (in October 2021) as Dr. Gill had not exhausted her internal appeal mechanisms prior to issuing the judicial review. Dr. Gill later learned that the judicial review was doomed to fail and that the costs incurred by Dr. Gill with Galati were unnecessary. Throughout the judicial review, Dr. Gill was not provided with any of the legal filings (those of the CPSO or those filed on her behalf by Galati), despite her multiple requests. She was never consulted or otherwise reviewed the written submissions made throughout that proceeding. Dr. Gill only received copies of the filings after retaining new counsel in the summer of 2022.

42. Around April 2021, and unbeknownst to Dr. Gill, a further case conference was held where a schedule was set for the anti-SLAPP motions.

43. On or about April 17, 2021, Galati met with Dr. Gill and informed her that the anti-SLAPP motions had been filed. He advised her that the motions would not succeed. He did not explain the legal test for such motions, what evidence would be required, or the potential cost consequences should the motions be granted and the actions dismissed.

44. After the April 17, 2021, meeting, materials were prepared in response to the motion. On several occasions, Dr. Gill met with Galati at his offices. During all those meetings and in all their interactions, Galati confirmed that Dr. Gill had a strong case and that the motions would be dismissed.

45. The affidavit Galati prepared for Dr. Gill in the context of her response to the anti-SLAPP motions was also deficient. It repeated significant portions of the lengthy statement of claim without including relevant evidence, and without addressing the issues that would be central to the motions, including the issue of harm under s. 137.1(4)(b). Dr. Gill had advised Galati of the significant harm she had suffered as a result of the Defamation Defendants' statements, including the effect it had on referrals to her practice (as a specialist physician, Dr. Gill's practice is dependant on referrals from other medical practitioners), threats to her safety and well-being, and a colleague leaving her medical clinic, significantly increasing her practice's overhead.

46. For reasons unknown, Galati prepared an affidavit for Dr. Gill but did not prepare one for the co-plaintiff Dr. Lamba. This decision was never discussed with Dr. Gill.

47. Throughout the time spent responding to the anti-SLAPP motions, Galati failed to forward or report to Dr. Gill on correspondence and/or legal filings that had been made by the Defamation Defendants. Dr. Gill only received a full copy of all material that had been filed after her solicitor-client relationship with Galati terminated in 2022.

48. Amongst other items, Galati failed to provide Dr. Gill with reply records that had been served by the Defamation Defendants, which included expert reports.

49. Cross-examinations on affidavits tendered in the context of the anti-SLAPP motions took place in July 2021. During the virtual cross-examinations, Galati had a banner of the Constitutional Rights Centre in his background.

50. When the issue of expert reports was raised during cross-examinations, Galati suddenly advised Dr. Gill that he had received, the previous day, the report at issue. This was inaccurate as the report had been served the prior month. Galati advised Dr. Gill that the report would be inadmissible because it was served after cross-examinations had begun. These were all misrepresentations to cover up his own professional errors.

51. During a break in the cross-examinations, Galati advised Dr. Gill that she should settle her claim with Radio-Canada and the Hamilton Spector, two of the Defamation Defendants. It was at this juncture that, for the first time, Dr. Gill was advised that there could be cost consequences if the anti-SLAPP motions were successful, although he did not provide any information as to the scale or quantum that could be awarded against Dr. Gill. Relying on Galati's advice, Dr. Gill agreed to a confidential settlement and a dismissal of the claim against those two defendants. A written settlement agreement, if any exists, was never discussed or provided to Dr. Gill.

52. Dr. Gill asked Galati whether similar settlements should be made with other defendants or whether any other defendants had approached him with offers. Galati advised against making such offers and represented that no offers had been received.

53. Later, Dr. Gill learned that several other defendants made settlement offers to Galati. He never conveyed these offers to Dr. Gill.

54. In September 2021, and unbeknownst to Dr. Gill at that time, one of the Defamation Defendants filed an affidavit accusing her of having third-party funding for the litigation. Although it was accurate to state that she did not have third-party funding for her litigation, Galati served and filed an affidavit from Ted Kuntz denying third-party funding without her knowledge or instructions. Ted Kuntz is a longstanding client of Galati's and is the president of Vaccine Choice Canada, an organization that does not share the same position as Dr. Gill with respect to vaccinations.

55. Between September 27 and 29, 2021, the anti-SLAPP motions were heard by Justice Stewart. Dr. Gill attended at Galati's office to observe the motions.

56. Upon arriving at his office on the first day, Dr. Gill was shocked to observe Galati consuming alcohol prior to the hearing. Dr. Gill requested that Galati not consume any alcohol while he was arguing the motions before the Court.

57. During the virtual anti-SLAPP motions, Galati had a banner of the CRC in his background.

58. On October 22, 2021, after the anti-SLAPP motions were heard, Galati provided two invoices totaling more than twice the "maximum amount" set out at the beginning of the retainer, contrary to the retainer agreement in place, and demanded that payment be made within 30 days. When confronted, Galati advised Dr. Gill that he had "changed his mind" and that he was entitled to demand the funds at any point in time.

59. On November 9, 2021, Galati argued the judicial review of certain CPSO decisions relating to Dr. Gill's tweets. Again, Galati had a banner of the CRC in his background.

60. When Dr. Gill participated in the hearing, she was surprised to see that there were several people observing the hearing. Dr. Gill later found out that Galati had promoted this hearing to his followers, in an apparent attempt to increase his notoriety and/or his efforts to fundraise for his CRC and/or to drum up more work for himself. His submissions were focused on advancing his criticism of governmental responses to the COVID-19 pandemic rather than arguing the issues that would advance Dr. Gill's position.

61. On November 18, 2021, the application for judicial review was dismissed with costs of \$3,500. Although the decision indicates that Dr. Gill agreed to that amount, Galati never discussed nor sought her instructions to reach that agreement on costs.

62. After the application for judicial review was dismissed, Dr. Gill attempted to fundraise to support her legal fees in the CPSO matters. Galati's wife, Amina Sherazee, who is herself a lawyer, acting on Galati's behalf as his agent (for whom he is at law responsible), was involved in those attempts and received some funds on Dr. Gill's behalf. Although she was told by Sherazee that these funds would be applied to Dr. Gill's legal fees, the money was never provided to her nor applied to her account.

63. On December 3, 2021, Dr. Gill provided Galati with a cheque to cover the legal costs ordered against her and to cover all of her legal fees incurred with respect to the CPSO matters as of that date.

64. After retaining new counsel with respect to the CPSO matters in 2022, Dr. Gill learned that, for reasons unknown, Galati had not forwarded the \$3,500 cost award to the CPSO. Dr. Gill was required to pay that amount again to the CPSO through her new legal counsel in the Fall of 2022.

65. Dr. Gill was advised that Galati was hospitalized in the Intensive Care Unit in early 2022. In late January, his office requested that Dr. Gill pay the invoice for the CPSO legal fees, that she had already paid them in December 2021.

66. On February 25, 2022, Galati's office forwarded Justice Stewart's decision to Dr. Gill. In her reasons, Justice Stewart granted all of the anti-SLAPP motions and dismissed Dr. Gill and Dr. Lamba's claims with costs to be determined.

67. After receiving the decision, Galati recommended an appeal and stated that it had a strong chance of success. Dr. Gill was never provided with a copy of the Notice of Appeal prior to it being filed with the Court of Appeal.

68. Through social media, Dr. Gill also learned that the Defamation Defendants had filed cost submissions, which she was unaware of and had not seen. She also learned that Galati had filed

cost submissions on her behalf, which she had not seen or approved before being filed on her behalf.

69. Around the same time, the CPSO served expert reports in its proceedings against Dr. Gill. Galati had failed to respond to multiple email requests by the CPSO for a response and missed critical deadlines for submissions. These expert reports and CPSO communications were never sent to Dr. Gill, nor was she told about their existence.

70. In March 2022, Dr. Gill paid off the entire balance owing to Galati for legal fees incurred in the defamation matter.

71. In April 2022, after confronting Galati about the cost submissions during a meeting with him, he decided to seek to remove himself from the record as Dr. Gill's lawyer. At the time, he claimed that he was unable to continue representing Dr. Gill due to his health and that he would likely be retiring from the practice of law.

72. Despite this representation, Galati continued to practice law for other clients and advance other pieces of litigation related to COVID-19 public health measures.

73. When Dr. Gill had retained Galati, he had represented that he and his staff had significant experience dealing with defamation and CPSO proceedings. However, after the April 2022 meeting, Galati took the position that he was the only one in his office who could handle such matters.

74. Galati's request to be removed was opposed by Dr. Gill and Dr. Lamba. Despite this, Galati was successful in obtaining an order removing himself as counsel of record on May 11, 2022. Galati and/or his wife and/or and his staff provided evidence in the context of these proceedings that was misleading, inaccurate and/or untrue.

75. Throughout the period of time that followed the April 2022 meeting, Galati failed to inform Dr. Gill as to developments in both matters and abandoned her at a critical time.

76. Prior to seeking his removal from the record, Galati recommended that Dr. Gill and Dr. Lamba retain a specific firm to replace him, that he claimed had defamation expertise. Without permission from Dr. Gill and Dr. Lamba, he sent file materials to this proposed new firm.

77. In June 2022, Dr. Gill and Dr. Lamba were provided with a full copy of all the material that had been uploaded to the Caselines platform for the s. 137.1 motions. This was the first time that Dr. Gill had been provided with several documents that had been filed and that had not been provided to her by Galati.

78. After Dr. Gill retained new counsel for the CPSO matters in June 2022, she was advised that an Inquires, Complaints and Reports Committee meeting was to take place the following week, despite Galati having never communicated this to her. The CPSO advised Dr. Gill, through her new counsel, that they had made several email requests to Galati for a response to their expert reports in the preceding several months, but no response was received from Galati. Galati had also failed to inform Dr. Gill of all of the preceding communications from the CPSO. Galati missed critical CPSO deadlines.

79. Despite searching for new counsel, Dr. Gill was only able to retain new counsel for the defamation matter in July 2022, at which point she realized that the cost submissions filed on her behalf by Galati were incomplete, inappropriate, and deficient.

80. Further to a request made by new counsel, Justice Stewart granted leave for Dr. Gill's new counsel to file further cost submissions. Galati appeared at a case conference before Justice Stewart for this purpose and argued against the factual basis advanced by Dr. Gill to seek leave to file additional costs submissions.

81. When new counsel was retained, the deadline to perfect the appeal was fast approaching. New counsel perfected Dr. Gill's appeal to the Court of Appeal and Dr. Gill abandoned several grounds of appeal that had been recommended by Galati, including judicial bias.

82. Despite these new submissions, Justice Stewart rendered a costs decision granting the Defamation Defendants legal costs of nearly 1.2M\$ (the "costs decision").

D. The Appeal and the Settlements

83. Between September 2022 and the hearing of the appeal on December 12, 2023, Dr. Gill attempted to mitigate the significant financial impact of the costs decision.

84. Although Dr. Gill took steps to perfect and argue her appeal, she was successful in resolving the matter against all but four of the Defamation Defendants. In doing so, she agreed to confidential settlement agreements with the various Defamation Defendants.

85. On February 22, 2024, the Court of Appeal released its decision dismissing the appeal against the remaining four Defamation Defendants and refusing leave to appeal the associated costs orders.

86. In doing so, the Court of Appeal criticized the litigation strategy promoted by Galati. In particular, the Court complained of the strategy of including a claim against Dr. Maciver in a proceeding that otherwise focused on issues related to COVID-19.

87. The Court of Appeal refused leave to appeal the costs award, noting the exceptional approach adopted by the plaintiffs (which was promoted by Galati) to sue twenty-three (23) separate defendants in the same omnibus proceeding.

88. In accordance with an agreement between the remaining parties to the appeal, the Court ordered that Dr. Gill pay a further \$32,500 to the remaining defendants for the cost of the appeal.

E. Galati's Liability

89. At all material times, Galati owed Dr. Gill a fiduciary duty, along with a duty of care and obligation to act at all material times in good faith and to protect his client's best interests.

90. Galati advised and recommended that Dr. Gill and Dr. Lamba bring an action against all the Defamation Defendants.

91. The vast majority of the Defamation Defendants were well-funded entities or individuals, several of which benefited from insurance coverage that covered their defence costs. By bringing twenty-three (23) different claims against well-funded defendants, it was almost certain that anti-SLAPP motions would be brought.

92. As such, the claim invited anti-SLAPP motions that were almost certain to be successful.

93. Galati never advised Dr. Gill of the risk of bringing claims in defamation on a matter of public interest and only advised her very late in the proceeding of the potential costs awards she could face in the likelihood she would lose the motions. In any event, Galati never advised Dr. Gill

that costs could even come close to approaching the \$1.2M that was eventually ordered against her. Had Dr. Gill been explained the risk of creating an omnibus defamation proceeding in the manner proposed and recommended by Galati, the likelihood of anti-SLAPP motions being filed, the legal test for such motions and the high likelihood they would succeed, and the severe costs consequences she would face, Dr. Gill would not have proceeded with the defamation proceeding.

94. Galati is liable for the torts of breach of fiduciary duty and professional negligence. By virtue of the solicitor-client relationship with Dr. Gill, Galati owed Dr. Gill fiduciary duties and a duty of care. Galati committed flagrant breaches of his duties. Without limiting the generality of the foregoing, Galati directly or indirectly committed the following breaches:

- a) He improperly commenced a claim that was doomed to fail.
- b) He failed to advise Dr. Gill of the risks in commencing a defamation action in the Province of Ontario, including the very real potential for anti-SLAPP motions to be filed, the test for these motions and the likelihood for an adverse full indemnity costs award.
- c) He failed to pursue any potential settlement with the Defamation Defendants, which would have mitigated damages and potentially rendered an action unnecessary.
- d) He failed to advise Dr. Gill of critically important information that would have allowed her to make an informed decision regarding various steps in the litigation, including but not limited to (i) initiating an action, (ii) continuing the action, (iii) settling the action against various parties and (iv) properly responding to the anti-SLAPP motions.
- e) He failed to properly and competently articulate, advance and argue a meritorious claim against some of the Defamation Defendants.
- f) He employed and/or relied upon junior lawyers, staff, and other employees who lacked sufficient competency skills, and training for the tasks they were undertaking.
- g) He held himself out as an expert in the field of defamation law, when he knew or ought to have known that he, in fact, lacked any such expertise.
- h) He failed to provide Dr. Gill with competent advice and recommendations.

- i) He failed to communicate with Dr. Gill in a regular, open, transparent, and clear manner.
- j) He failed to provide Dr. Gill with notice and/or sufficient notice of deadlines in her legal proceedings.
- k) He missed and failed to advise Dr. Gill that he had missed critical deadlines in the CPSO matters (including appeals to the Health Professions Appeal and Review Board).
- l) He failed to take instructions or solicit informed consent from Dr. Gill on important steps in the litigation.
- m) He placed his own beliefs, interests and/or ideology above the interests of his client, Dr. Gill.
- n) He acted for Dr. Gill even though he was in a conflict of interest, seeking to advance his own interests, political or otherwise, and to personally benefit from acting for Dr. Gill and putting his own interests ahead of hers.
- o) He committed flagrant breaches of his duties owed to Dr. Gill pursuant to the *Rules of Professional Conduct*.
- p) He drafted, prepared, and issued a grossly deficient Statement of Claim.
- q) He committed numerous errors and breaches in defending the anti-SLAPP Motions.
- r) He prepared and delivered deficient responding motion material to the anti-SLAPP Motions.
- s) He failed to provide Dr. Gill with a copy of the Motion Decision in a timely manner.
- t) He prepared and delivered deficient cost submissions.
- u) He prepared and delivered a deficient Notice of Appeal.
- v) He abandoned Dr. Gill's legal cases at critical times and left her in a vulnerable position.
- w) He generally acted as incompetent legal counsel in advancing and protecting Dr. Gill's interests.

x) Such further particulars as counsel for the plaintiff will advise.

95. In addition to the above, or in the alternative, Galati is liable for breach of contract. The conduct set out above also constitutes a breach of express or implied terms of the retainer agreement entered into between Dr. Gill and Galati, including his obligation to perform the contract in good faith.

96. Galati knew or ought to have known that their flagrant breaches and conduct set out above would cause Dr. Gill damages.

F. Damages

97. As a result of the breaches and conduct of Galati described above, Dr. Gill suffered damages and losses, the particulars of which will be provided in advance of the trial of this action. These damages include, but are not limited to, amounts paid to Galati, the amounts paid to the Defamation Defendants pursuant to Justice Stewart's costs decisions, the amounts paid to new legal counsel to attempt to extricate Dr. Gill from the legal proceedings initiated by Galati, the amounts paid to new legal counsel to properly respond to the CPSO proceedings (including matters before the Health Professions Appeal and Review Board), the amounts paid twice for the costs of the CPSO judicial review matter and any other costs relating to these proceedings that could have been avoided had she received competent advice and representation by Galati.

98. As a result of Galati's breach of fiduciary duty and negligence, Dr. Gill has suffered stress, anxiety and mental anguish as she was left in the lurch by Galati after losing the anti-SLAPP motions and facing \$1.2M in cost awards against various parties. The cost awards and the significant additional legal fees she has had to incur put her on the brink of insolvency, which caused and continues to cause significant stress and anxiety as a sole result of Galati's conduct, negligent representation of her and the negligent advice given throughout his retainer.

99. Dr. Gill has taken all reasonable steps to mitigate her damages.

100. Galati's conduct has been high-handed and egregious and justifies awards of aggravated and/or punitive damages.

G. Conclusion

101. Dr. Gill pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N.1,

102. Dr. Gill submits that this action should be tried in the City of Toronto.

Date: March 25, 2024

CAZA SAIKALEY s.r.l./LLP

Lawyers | Avocats

1420 – 220 Laurier Ave West

Ottawa, ON K1P 5Z9

Jeff G. Saikaley (LSO # 46406H)

jsaikaley@plaideurs.ca

Albert Brunet (LSO # 74233U)

abrunet@plaideurs.ca

Tel:613.565.2292

Lawyers for the Plaintiff, Dr. Kulvinder Gill

DR. KULVINDER GILL
Plaintiff

-and-

ROCCO GALATI
Defendant

Court File No.: CV-24-00715344-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced in Toronto

STATEMENT OF CLAIM

CAZA SAIKALEY s.r.l./LLP

Lawyers | Avocats

1420 – 220 Laurier Ave West

Ottawa, ON K1P 5Z9

Jeff G. Saikaley (LSO # 46406H)

jsaikaley@plaideurs.ca

Albert Brunet (LSO # 74233U)

abrunet@plaideurs.ca

Tel:613.565.2292

Lawyers for the Plaintiff, Dr. Kulvinder Gill