



Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

ROCCO GALATI

Plaintiff

- and -

JILL CROSS, GLORIA USHIRODE, THE DIRECTOR OF INTAKE AND RESOLUTION,
THE LAW SOCIETY OF ONTARIO ("LSO")

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.
10th Floor
Toronto, Ontario
M5G 1E6

TO: Jill Cross
Intake and Resolution Counsel
Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: JCross@lso.ca

AND TO: Gloria Ushirode
Intake and Resolution Counsel
Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: GUshirode@lso.ca

AND TO: Intake and Resolution Director
Complaints & Compliance
Law Society of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N6
General line: 416-947-3315
Toll-free: 1-800-668-7380
Fax: 416-947-5263
Email: comail@lso.ca

AND TO: Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: lawsociety@lso.ca

CLAIM

1. The Plaintiff claims:

(a) General damages as against the Defendants, as follows:

- (i) \$500,000.00, as against the Defendants, in negligent investigation, abuse of authority and process, breach of fiduciary duty, breach of statutory duty, interference with economic interests, intimidation, and violation of the Plaintiff's s.7 and s.15 **Charter** rights for conduct executed in bad faith and absence of good faith;
- (ii) Pre-judgment and post judgment interest pursuant to s. 128 of the **Courts of Justice Act R.S.O. 1990 c. C43**; and
- (iii) costs of this action on a full indemnity basis and such further or other relief as this Court deems just.

(b) A declaration that s. 49.3 of the **Law Society Act**, in the absence of a client complaint, to the Law Society of Ontario, violates s.7 and 8 of the **Charter**, is not saved by s.1 of the **Charter** and should be accordingly be "read down" pursuant to ss.24(1) and s.52 of **the Constitution Act, 1982**.

(c) A further Declaration, if necessary, that **s. 9** of the **Law Society Act** violates ss. 7 and 15 of the Charter, emanating from the Rule of Law, in granting immunity from intentional and non-intentional tort, as well breaching the right to Independence of the Judiciary.

(d) A further declaration that the Law Society of Ontario ("LSO"), as a statutory creature of the Provincial Legislature, does not have any constitutional source, under s. 92 of the **Constitution Act, 1867**, to regulate, curtail, or otherwise review the free speech and expression of lawyers, particularly outside the confines of their legal practice, as

ruled by the Supreme Court of Canada in, **inter alia**, *Switzman v. Elbling*, [1957]
S.C.R. 285 and Saumur v City of Quebec- [1953] 2 SCR 299.

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 the requirements of the *Law Society Act*.
3. The Plaintiff 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, with previous Presidents' Awards having been bestowed on judges and two (2) advocacy groups.
4. Between May 2015 and May 2019, he served as an elected benchler 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. The Plaintiff has litigated, regularly, at all level Courts, including Tax Court, Federal 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, approximately 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. The Plaintiff has been asked to speak and has spoken, regularly, at various Law and other Conferences, Law Schools, Universities and High Schools, across Canada from 1999 to present.
7. The Plaintiff is the founder and Executive Director of Constitutional Rights Centre Inc. since its inception in November, 2004.
8. The Plaintiff has co-authored two books, namely: “*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.

(b) The Defendants

9. The Defendants, Jill Cross and Gloria Ushirode are Intake and Resolution Counsel, Investigators, with the Law Society of Ontario. As statutory employees of a public regulatory body they are therefore public office holders.
10. The Defendant, the Director of Intake and Resolution as a public office holder, is an employee with the Law Society of Ontario, and the Defendant, the Law Society of Ontario,

is a statutory and corporate body, and both are responsible for the oversight of the various Intake and Resolution counsels at the Law Society of Ontario, including their training to ensure competence and further to ensure that those counsel act in good faith. absence of bad faith, and are fair and reasonable in their role as Intake and Resolution counsel, for whom the LSO is vicariously liable.

11. The Defendant, the Law Society of Ontario, is a successor to the Law Society of Upper Canada, established in 1797 and is, at common law, and under the *Law Society Act* statutorily, charged with the regulation of Barristers, and Solicitors, and “Licensees” as defined post 1992, and, as a statutory body and corporation, is liable, for the actions of the Co-Defendants, Jill Cross, Gloria Ushirode, and the Director of Intake and Resolution.

FACTS

- **The Nature of the Plaintiff’s Legal Practice.**

12. Throughout the Plaintiff’s legal career, up to and including March 11th, 2020, the declared COVID-pandemic, the Plaintiff has been the subject of racially-based, abusive and frivolous complaints from government departments against whom he litigates, as well as self-generated LSO complaints based on newspaper and other media posts, and the racist/anti-Semite prone members of the public at large with nothing better to do than grind their racist axe. **None** of any of these numerous complaints, over the 34 plus years of the Plaintiff’s practice, were ever referred to any disciplinary hearing, or any other disciplinary action.

13. The Plaintiff started his career (1987-1990) with the Department of Justice and since then, to the present, has been engaged in private practice mostly restricting his practice to proceedings against the Crown.
14. During the course of his career, in defending constitutional rights, the Plaintiff has had to withstand relentless personal attacks, and several viable death threats, from racists, anti-Semites, and extremists who took issue with his Calabrian, Jewish heritage and/or his clients, labelling his clients, and the Plaintiff, as "mobsters", "terrorists" or "anti-vaxxers".
15. The COVID-19 era is no exception. On May 19th, 2022, the Plaintiff received, from the Defendants, the 9th complaint against the Plaintiff and one of his junior lawyers brought to his attention since the commencement of COVID-19, for legal proceedings by his law firm on behalf of clients, which complaints have been brought against the Plaintiff and his junior lawyers just for doing their job(s) as lawyers, to the letter and spirit of Rule 5.1- of the Law Society of Ontario's *Rules of Professional Conduct*. In two of those complaints, the complainants were Defendants in cases the Plaintiff and his firm were conducting as counsel for the Plaintiffs in those cases.

- **Plaintiff's history with the Law Society PRE-COVID-19**

16. The Plaintiff states that, as a Calabrian with Jewish ancestry, he is a member of historically discriminated group in Canada, including the interment of Italo-Canadians in World War II, as well as the long-standing and pervasive depiction of "Italians" as criminals and "mobsters". The Plaintiff has also been, personally, the victim, throughout his years, including his teenage years, of racially-based violence on the part of racist Canadians at

large, including police officers. He has also faced pervasive discrimination within the legal profession.

17. The Plaintiff has never been charged nor convicted of any criminal offence nor been found to have ever committed any breach of the *Rules of Professional Conduct* of the Law Society. In fact, to repeat, he has **never** been referred to any discipline action.

- **Plaintiff's history with the Law Society POST-COVID-19**

18. Since the declaration of the COVID-19 pandemic, on March 11th, 2020, the Plaintiff and his junior lawyer have been the subject of no less than nine (9) baseless and abusive LSO complaints, some of them with racist over-tones and undertones, **all** with respect to their roles as counsel on cases litigating COVID-19 measures imposed by the Provincial and Federal governments.
19. Of those nine complaints, eight were dismissed. However, the LSO required the Plaintiff to respond to three (3): by Alexandra Moore, "Lindsay H", and Donna Toews.
20. The complaints made were chronologically made as follows:
- (i) December 2020, complaint from "Lindsay H.", through Intake and Resolution Counsel, Samantha Nassar;
 - (ii) February 18, 2021, complaint from Terry Polevoy, (a Defendant in a defamation case in which Galati represented the Plaintiff in that action), through Intake and Resolution counsel, Samantha Nassar;

- (iii) February 18th, 2021, complaint from Alexandra Moore (a Defendant in her own defamation case) against Galati's junior lawyer, Samantha Coomara, through Intake and Resolution Counsel, Samantha Nassar;
- (iv) February 22, 2021, complaint from Elana Goldfried, through Intake and Resolution counsel, Samantha Nassar;
- (v) August 3, 2021, complaint from Alexandra Moore (a Defendant in her own defamation case) through Intake and Resolution Counsel, Miko Dubiansky;
- (vi) November 25th, 2021, a further complaint of Alexandra Moore, through Intake and Resolutions Counsel, Miko Dubiansky;
- (vii) February 4, 2022 complaint of Terry Polevoy (a Defendant in a defamation case in which Galati represented the Plaintiff in that action) through Intake and Resolution counsel, Sharon Greene;
- (viii) February 4, 2022, two complaints from Franca Lombardi, through Intake and Resolution counsel, Miko Dubiansky;
- (ix) May 19th, 2022 complaint by Donna Toews through Intake and Resolutions counsel, Sharon Greene.

21. After the second complaint, from Alexandra Moore, the Plaintiff wrote to the Law Society on September 21, 2021, and stated as follows:

The other thing I cannot fathom is the Law Society of Ontario's approach and conduct in forwarding this to me for response at all. Ms. Nassar was on the previous Moore complaints. There seems to have been absolutely no minimal review of them, nor Ms. Moore's website, to glean what Canuck Law and Ms. Moore are about with respect to me and my clients.

In my last correspondence, on a similarly outrageous complaint, by an outrageous individual, with respect to an attempt to censor my speech, I indicated that the next time I received one of these, I would commence action against the LSO, in the absence of an apology.

If I do not receive an apology from the LSO on this "Complaint" which should not even have reached me, if the minimum of research was done on Ms. Moore and her website, I will commence action against the LSO for negligent investigation and the newly-created tort of (online) harassment because, it seems to me, that the LSO is more than content and willing to be dupe and conduit for Ms. Moore's and Canuck Law's filth, anti-Semitic, racists, and derogatory harassment of me and my clients.

22. On May 19th, 2022, the Plaintiff received yet another ridiculous, baseless, and unfounded complaint by a non-client, whom the Plaintiff has never met, does not know, nor ever communicated with, namely a Ms. Donna Toews ("Toews complaint").
23. The Plaintiff, under threat of the powers in s. 49.3 of the *Law Society Act*, was required to respond to this complaint, without any particulars whatsoever, but simply the misplaced assumption of the Intake counsel/Investigator, Sharon Greene. Attached as "Schedule A" is a copy of the Plaintiff's response dated June 29th, 2022, to the complaint, which the Plaintiff forwarded to the LSO. The Plaintiff pleads that "Schedule A" and the documents referred to and forwarded to the LSO with "Schedule A" are documents pleaded in the within Claim.
24. Following receipt of this complaint, the Plaintiff on June 28th, 2022, filed action against the complainant Donna Toews, and her Co-conspirators, in Ontario action Court File No. CV-22-683322-0000. The Plaintiff relies on the facts pleaded in that action, attached hereto as "Schedule B", without repeating them here in the within claim, particularly in respect to Mr. Warner, et al, vis-a-vis the Plaintiff's clients **Vaccine Choice Canada** and **Action4Canada**.

25. On June 28th, 2022 the Plaintiff participated, as legal counsel for a lawyer client undergoing LSO investigation, on a compelled interview, via zoom, for issues arising from the lawyer's free speech as a private citizen. The lawyer was interviewed by two Law Society investigators, the senior investigator being Jill Cross. During that interview Jill Cross became acrimonious with legal counsel, Rocco Galati, over objectionable questions, assumptions, and attempts to put words and attribute non-existent conduct to the lawyer being interviewed, to which Rocco Galati objected.
26. Following the Plaintiff's response to the Toews complaint, dated June 29th, 2022, to the Law Society of Ontario, the Defendant(s), Sharon Greene, and the Law Society of Ontario, continued to pursue the abusive and baseless complaint with the Plaintiff.

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

27. 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.
28. 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 to view his lawsuit's GoFundMe page.
29. On or about December 14, 2020, the Plaintiff, in the within action, Rocco Galati, 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".

30. The Plaintiff, Rocco Galati, 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.
31. In January 2021, the Plaintiff began working on the Notice of Claim (Statement of Claim) for Action4Canada and **other co-Plaintiffs**, in British Columbia.
32. 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, Rocco Galati. 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, Rocco Galati, and the case brought by the Plaintiff, and asserted that Kip Warner and the Canadian Society for the Advancement of Sciences in Public Policy had brought their case first and therefore would have "carriage of the matter", and then finally asked Action4Canada to assist them in soliciting donations on their behalf for their legal proceeding.

33. On January 29, 2021, the Plaintiff, Rocco Galati, 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, according to her, the Plaintiff could not file any proceedings on behalf of his clients.
34. On February 3rd, 2021, the Plaintiff, Rocco Galati, responded to Ms. Furtula's letter indicating her client did not have exclusive monopoly to litigation against the Crown. The Plaintiff, Rocco Galati, also, in the same response, issued a warning through Ms. Furtula about Mr. Warner's defamatory conduct against the Plaintiff, Rocco Galati.
35. From January 2021 and onward, the Defendants in the action attached in "Schedule B" hereto, 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.
36. 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. Kip Warner's defamatory comments continue in e-mail correspondence with third parties stating that, with respect to the Plaintiff, "we've been receiving reports weekly, sometimes daily, alleging bad faith, fraud, or other improprieties in Rocco's fundraising arms".

37. 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.: VLC-S-S-217586, in British Columbia.
38. From August to Christmas, 2021, the Defendants to this British Columbian Statement of Claim Court file No.: VLC-S-S-217586, 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.
39. By Christmas Day, 2021, the Defendants had **not** brought their motions to strike. In early December and over Christmas, the Plaintiff became very ill. On December 25th, 2021, the Plaintiff was bed-ridden. On January 2nd, 2022, the Plaintiff was admitted for a critical illness to the ICU in hospital.
40. After being admitted to hospital in January 2, 2022, the Plaintiff entered a very serious and life-threatening 12-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 13th, 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, on January 22, 2022, and he transferred himself to recover in a private medical setting with 24/7 care.

41. The Plaintiff did not return home until March 2, 2022, to continue recovering. He still has not regained full recovery at present.
42. The motion to strike, in British Columbia Action no.: VLC-S-S-217586, which had been set for February 22, 2022, in British Columbia, was adjourned by the Plaintiff's office to May 31st, 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 various motions on May 31st, 2022. The various motion(s) to strike were heard on May 31st, 2022 and the Court has reserved its decision.
43. Through the complaint, provided to the Plaintiff by the Law Society Defendants in the Toews et al., the Plaintiff learned that, while the Plaintiff lay in a coma, on January 15th, 2022, Kipling Warner was conspiring and encouraging Donna Toews (aka "Dawna Toews") to file a complaint against the Plaintiff with the Law Society of Ontario.
44. On January 15th, 2022, Ms. Toews filed her complaint with the Law Society of Ontario, which was forwarded to the Plaintiff on May 19th, 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 clients’ organizations 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.
45. 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 in the action attached hereto as “Schedule B”.
46. Following the receipt of the Plaintiff's response to the investigation intake counsel, Sharon Greene, continued to follow up and pursue the complaint, against the Plaintiff, made by Donna Toews with the assistance and instigation of Kipling Warner.
47. On June 28th, 2022, the Plaintiff took action against Donna Toews, Kipling Warner and others, a copy of which claim is attached as “Schedule B” to the within claim (the “Toews action”).
48. On June 28th, 2023, the Plaintiff executed, and on July 12th, 2023, the Plaintiff issued an action against Sharon Greene, and other LSO Defendants, which claim is attached as “Schedule C”, which list the Plaintiff’s relief in that action (the “Greene action”).

49. Less than four weeks from the issuance of the “Greene action”, on August 10th, 2022, Jill Cross, forwarded yet another complaint against the Plaintiff, arising from a purported speech the Plaintiff purportedly gave, at Nathan Phillips Square, on November 6th, 2021. This complaint was on the content of his purported speech. This complaint did not emanate, with respect to Covid-19 measures, from a client or member of the public, but from the “Law Society” itself, without disclosing **who at the Law Society** initiated it. The Plaintiff requested clarification of the complaint and further objected to Jill Cross spear-heading the investigation given their interaction of June 28th, 2022, and further given the same very contextual nature, namely free speech of a private citizen.
50. On August 10th, 2022, the Plaintiff further wrote Jill Cross requesting who the person, at the Law Society, was that had actually made the complaint as the complaint letter from Jill Cross had the “complainant” as “the Law Society”, without specifics.
51. The Plaintiff reasoned that the “complainant” was Jill Cross herself, with perhaps others with whom she consulted, as retribution for the skirmish the Plaintiff had with her while representing another lawyer, on a zoom video (“investigation interview”), in which Jill Cross was angered by the Plaintiffs objections to certain questions put to the lawyer. (Over a year has passed since that interview of June 28th, 2022, with the case of that lawyer still in investigative limbo).
52. On September 12, 2022, the Law Society transferred the “Toews complaint” as overseen by Sharon Greene, to a different investigator. This new investigator notified the complainant, Donna Toews, a copy of which went to the Plaintiff, that given the action commenced against Toews, et al, that the Toews complaint would not be dealt at this time until the outcome of the action in Superior Court, at which time it may be exhumed

and taken up again. This notwithstanding that the Plaintiff, Rocco Galati, had fully responded to the complaint.

53. On or about October 28th, 2022, Jill Cross wrote back to advise the Plaintiff that she would get back to the Plaintiff in response to his query and demand for particulars. She never got back to the Plaintiff.
54. On May 29th, 2023, yet another investigator, Gloria Ushirode, over nine (9) months after Jill Cross' initial correspondence, wrote the Plaintiff with the same, recycled, complaint that Jill Cross had forwarded.
55. The plaintiff, on June 14th, 2023, again wrote Gloria Ushirode requesting/demanding the same particulars and disclosure that he had of Jill Cross. Gloria Ushirode refused.

- **Conspiracy**

56. The Plaintiff states and fact is, that the Defendants in the action attached as “Schedule B”, 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.

The Plaintiff states that those Defendants acted, under the guise of a LSO complaint, with the singular aim of harming the Plaintiff and knowingly acted in bad faith and dishonestly in doing so.

- 57. The Plaintiff further states that the Defendants in the action attached as “Schedule B” further conspired to engage in actionable abuse of process through the Law Society complaint, as well as intimidation (through a third party).
- 58. The Plaintiff states that the Defendant, Sharon Greene, in forwarding the complaint for response, jumped on as a co-conspirator with Donna Toews, Kipling Warner, and CSASPP, which conspiracy should have been evident to the Defendant, Sharon Greene, if she had carefully read Donna Toews’ complaint form and attached documents, and if Sharon Greene conducted embryonic research and/or investigation of the complaint in a fair and reasonable manner. All of which is indicia of bad faith an absence of good faith, by Sharon Greene, and the LSO vicariously acted with the singular, dishonest, and bad faith intention of harming the Plaintiff under the guise of a complaint.
- 59. The Plaintiff states that the LSO Defendants joined the actionable conspiracy against the Plaintiff when they adopted the complaint by forwarding the complaint and threatening the use of search and seizure powers under s.49(3) of the ***Law Society Act***.
- 60. The Plaintiff further states that Jill Cross, Gloria Ushirode, and unknown others have further engaged in a further overlapping, conspiracy of their own, due to the skirmish

between the Plaintiff and the Defendant on June 28, 2022 and the fact that the Plaintiff sued Sharon Greene and other LSO Defendants on July 12th 2022.

61. The Plaintiff states that the Defendants, in the within action, Jill Cross and Gloria Ushirode, in a dishonest and bad faith manner in an attempt is to harm the Plaintiff through a misuse of the complaint process as payback for the animosity of Jill Cross, and the fact that the Plaintiff took action against Sharon Greene and the other LSO Defendants.

- **The Law Society Complaint as a Tort of Abuse of Process**

62. 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 of process, as a tort, is made out where:

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

63. The Plaintiff states that Ms. Toews, Mr. Warner, and Mr. Gandhi, and CSASPP, took and made acts, as well as pre and 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 CSASPP, as well as through the vehicle of a baseless, abusive, and bad faith complaint to the Law Society of Ontario. All this damaged and continue to damage the Plaintiff by way of reputation and his solicitor-client relationships.

64. The Plaintiff further states that the Law Society of Ontario Defendants in the “Toews complaint”, Sharon Greene and other’s, conduct magnified, augmented and joined the conspiracy, that actionable abuse of process and, by putting the Plaintiff through the process of a response, constitutes not only adding to the actionable abuse of process, but further is a separately actionable tort of abuse of process. And, in doing so, manifest bad faith and absence of good faith.

65. The Plaintiff further states that the Defendants in “Schedule B”, (the “Toews action”) in their actions, knowingly intended, and in fact inflicted, mental anguish and distress through their actions against the Plaintiff, all of which go to punitive damages. The Plaintiff further states that the Law Society Defendants in the “Greene action”, and within action are further augmenting and inflicting mental anguish and distress.

- **Misfeasance of Public Office**

66. The plaintiff further states that the Law Society defendants have engaged in abuse of authority and misfeasance of public office, in that:

(a) Jill Cross and Gloria Ushirode have engaged in conduct specifically designed to injure the Plaintiff;

(b) Jill Cross and Gloria Ushirode have engaged, and continue to engage, in acting with knowledge that they do not have the power to deny disclosure and particulars to allow

the Plaintiff to fairly and fully respond in his defence, and that this conduct is likely to injure, and has injured the plaintiff;

And did so by:

- (a) Refusing to disclose the source at the “Law Society” who made the complaint;
- (b) Issued the complaint due to the Plaintiff’s interaction with Jill Cross while representing another lawyer on the same issue(s) of free speech;
- (c) Issued the complaint, which purported events were old, less than a month after the Plaintiff took action against Sharon Greene and the other LSO Defendants;
- (d) Are investigating purported “free speech” and conduct, knowing that s.92 of the *Constitution Act, 1867*, is not a constitutional source of power for the Province to regulate speech, nor is there any constitutional source and jurisdiction for the Province to regulate free speech, as ruled by the Supreme Court of Canada, as pointed out by the Plaintiff, to Jill Cross, during the course of the compelled interview of the Plaintiffs client on June 28th, 2022.

- **Interference with Economic Interest**

67. The Plaintiff states that, through their conduct and actions, the Defendants in the action attached hereto in “Schedule B”, the “Toews action”, as well as the Defendants in the “Greene action”, and the within action, 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.

(d) moreover, the Plaintiff was required to forward the complaints, from total strangers, to his own clients;

(e) as a result of the complaints, the Plaintiff was, and is, not entitled to hire any articling students which he had done in the past.

68. The Plaintiff states that the conduct of the Defendants in the Toews action, as well as the Greene and LSO action, attached hereto as “Schedule B” and “Schedule C”, as well as the Defendants in the within action, Cross and Ushirode and others, 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. The Plaintiff further states that the Law Society Defendants in the within action further augmented and become party Co-Defendants in this interference with the Plaintiff’s economic interest through their actions executed in bad faith and in the absence of good faith.

- **Breach of Fiduciary Duty**

69. The Plaintiff further states that the Law Society Defendants, in the Greene action, as well as the within action, in addition to the duties of fairness and reasonableness, at common law and Administrative Law, and under statute, further owe a fiduciary duty to the Plaintiff, as a Barrister and Solicitor, called to the Bar, by the Chief Justice of the Ontario Court of Appeal in March, 1989, in that the Defendant Law Society of Ontario assumed a fiduciary relationship, and owed a corresponding fiduciary duty of care to the Plaintiff, for the following reasons:

- (a) The LSO Defendants were, and are, in a position of power over the Plaintiff, and were able to use this power so as to unlawfully, and in bad faith, control and affect the Plaintiff's interests;
- (b) The Plaintiff was, and is, in a corresponding position of vulnerability toward the Defendants. The Plaintiff was, and is, therefore in a class of persons vulnerable to the control of the Defendants;
- (c) There was, and is, a special position of trust between the Defendants and the Plaintiff, governed by statute, the *Charter*, and the common law;
- (d) The Defendants undertook to act in the best interests of the Plaintiff, in that:
 - (i) it is a statutory, Administrative Law, and constitutional requirement that the Defendants review, assess, and process complaints in a fair and reasonable fashion;
 - (ii) the Plaintiff, and other members of the bar, pay for the administration of the Law Society of Ontario, through their annual fees, including the disciplinary process; and
 - (iii) it is in the "public interest" that baseless, abusive, and/or racist-based complaints, **particularly from non-clients**, not be entertained and processed against lawyers failure of which is indicia of acting in bad faith and absence of good faith; and
- (e) The Defendants breached this fiduciary duty;

And, as a direct result of this breach, the Plaintiff has suffered loss and damages, which include, *inter alia*:

- (a) Damage to reputation and interference with the economic and other dimensions of the Plaintiff's solicitor-client relationships with past, current, and prospective future clients;
- (b) Loss of dignity; and
- (c) Violation of his psychological integrity guaranteed and protected by s.7 of the *Charter*, as well as violation of his dignity of equal treatment under s.15 of the *Charter*.

- **Negligence (Negligent Investigation)**

70. The Plaintiff further states, based on the facts set out in the within claim, and the jurisprudence, that the LSO Defendants are liable to the Plaintiff in negligence, and negligent investigation, as set out by the jurisprudence, in that:

- (a) The Intake and Resolution Counsel, Jill Cross and Gloria Ushirode, the Intake and Resolution Director, and the Law Society of Ontario, owed the Plaintiff a duty of care to rationally, fairly, and reasonably deal with the complaint against the Plaintiff;
- (b) The Defendants were required to meet the standard of care, where the standard of care is assessed at the "reasonable investigator" (reasonable intake counsel);
- (c) The Intake and Resolution Counsel did not meet this standard;
- (d) As a result, the Plaintiff suffered and continues to suffer damages as set out in the within claim;

and the Plaintiff further states that the Defendants, the Director of Intake and Resolution, and the Law Society of Ontario, have failed in his/her/their duty to properly instruct and

train the LSO Defendants, in their statutory, common-law, and constitutional duties in her role, and are equally liable for damages, as direct supervisor and employer.

- **Intimidation**

71. The Plaintiff further states that the Defendants, in dealing with the Plaintiff pre-, but moreover post-COVID-19, since March 11th, 2020, have engaged, for the facts set out in the within claim, in the actionable tort of Intimidation, as defined by the Court of Appeal of Ontario in *McIlvenna v. 1887401 Ontario Ltd.*, 2015 ONCA 830, and other Supreme Court of Canada jurisprudence, as follows:

[23] The tort of intimidation consists of the following elements:

- (a) a threat;
- (b) an intent to injure;
- (c) some act taken or forgone by the plaintiff as a result of the threat;
- (d) as a result of which the plaintiff suffered damages:

- *McIlvenna v. 1887401 Ontario Ltd.*, 2015 ONCA 830

72. The Plaintiff states that this tort of intimidation is most evident in the three (3) complaints, and the current “Law Society” complaint the subject of the within action, the Plaintiff has been required to respond to, which he should not have been required to respond to, but is further evident in his being notified of six other complaints upon which the LSO did **not** act upon. The Plaintiff states that if the LSO is not acting on complaints, “at this time”, then there was no need to notify the Plaintiff except to remind, and intimidate the Plaintiff as to the menacing presence over the Plaintiff’s professional (and personal) life. This is moreover pronounced in the threat to use the over-reaching powers under s.43.9 of the *Law Society of Ontario Act* in Sharon Greene’s **initial** letter, as well

as Cross's and Ushirode's initial letters, forwarding the complaint. These are all indicia of acting in bad faith and absence of good faith.

73. The Plaintiff states, and the fact is, that the Law Society of Ontario Defendants' actions and conduct, set out in the within statement of claim, are being carried out in bad faith, and in the absence of good faith, and knowingly contrary to their statutory and constitutional duties, with the knowledge and intent to injure the Plaintiff.
74. The Plaintiff states that, with respect to all the tortious conduct, and causes of action pleaded, that the Defendants acted in bad faith and absence of good faith and that, in any event, the purported immunity conferred under s. 9 of the **Law Society Act**, is of no force and effect as it violates ss. 2 (freedom of expression), s.7 (psychological integrity), s.15 (equality) of the **Charter**, as well as the constitutional right of judicial independence in the legislative interference of the judiciary in applying the law unequally, in that no-one is above the law, as emanating from the constitutional imperatives of constitutionalism and the rule of law.
75. The Plaintiff further states that the Defendant's bad faith, and absence of good faith, is evident, in addition to what is pleaded in paragraphs 10, 56, 58, 61, 62, 63, 64, 65, 68, 69, 72, 73, 74,, **inter alia**, by:
- (a) forwarding, for response, of baseless and repugnant complaints laced with repugnant racial and ethnic over and under-tones as well as defamatory language;
 - (b) the harassment of notifying the Plaintiff of complaints, whose substance is undisclosed, which were summarily dismissed, with notification to the Plaintiff, whose only purpose is to harass and remind the Plaintiff that the clients he represents, and his falsely imparted anti-covid measure views are not shared by the Law Society;

- (c) by the retaliatory triggering of another Law Society complaint, again anchored on free speech, apparently self-triggered by the Law Society, merely four (4) weeks after the Plaintiff filed an action against the Law Society;
- (d) the saturated, mere number of complaints, in such a short period of time;
- (e) the history of the Law Society giving countenance to baseless complaints against the Plaintiff laced with racist and intolerant views of both the Plaintiff and his clients.
- (f) the refusal to provide reasonably requested disclosure and particulars prior to responding to ensure natural justice and the right to make full answer and defence:
- (g) **in limine** threats of seizure of records in the initial complaint letters.

- **Violation of the Plaintiff's ss.7 and 15 *Charter* Rights**

76. The Plaintiff further states, for the facts pleaded in the within Statement of Claim, that the Defendants violated the Plaintiff's s.7 and s.15 ***Charter*** rights. The Plaintiff further states that these violations are not saved by s. 1 of the ***Charter***, and that he is further entitled to an award of damages pursuant to s. 24(1) of the ***Charter***, to be determined at trial.

- **Declaration of Unconstitutionality of s. 49.3 of the *Law Society Act***

77. The Plaintiff states that, in absence of a client complaint, s. 49.3 of the ***Law Society Act*** violates ss.7 and 8 of the ***Charter***, and ought to be accordingly "read down", pursuant to ss.24(1) and 52 of the ***Constitution Act, 1982***, for violations of ss.7 and 8 of the ***Charter***.

- **Section 7 of the *Charter***

78. It is submitted that s. 49.3 of the ***Law Society Act*** is a standardless sweep and violates s.7, in violating, in an overly-broad and arbitrary fashion:

(a) The Solicitor-Client relationship protected by s.7 in the *Charter* as set out in the Supreme Court of Canada decision of *Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC 7 (CanLII), [2015] 1 SCR 401*;

(b) The privacy interests protected under ss.7 and 8 of the *Charter*, by both the solicitor and client in the Solicitor-Client relationship.

- **Section 8 of the *Charter***

79. The Plaintiff further states that s. 49.3 of the *Law Society Act* further violates s.8 of the *Charter*, in the absence of a client complaint, constituting an unreasonable search and seizure, which brings the administration of justice into dispute and which violation is not saved by s.1 of the *Charter*, and for which it should be accordingly “read down” pursuant to ss.24(1) and 52 of the *Constitution Act, 1982*.

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

80. The Plaintiff states that the Defendants are liable to the Plaintiff, jointly and severally, as set out in paragraph 1(a) of the within Statement of Claim, for the instances and reasons pleaded above, and seeks the relief requested in paragraph 1(a), (b), and (c).

81. The Plaintiff further pleads any and all documents mentioned in this Statement of Claim as documents referred to in the pleadings herein.

82. The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 31st day of July, 2023.



ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION

Rocco Galati, B.A., LL.B., LL.M.

1062 College Street, Lower Level

Toronto, Ontario, M6H 1A9

TEL: (416) 530-9684

FAX: (416) 530-8129

Email: rocco@idirect.com

Lawyer for the Plaintiff, on his own behalf

**ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION**

1062 College Street, Lower Level
Toronto, Canada M6H 1A9
Direct Line (416) 530-9684 Fax (416) 530-8129

STRICTLY PRIVATE AND CONFIDENTIAL

June 29, 2022

SENT VIA EMAIL

Sharon Greene
Intake and Resolution Counsel
Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: SGreene@lso.ca

Dear Ms. Greene,

RE: Law Society Complaint of Donna Toews, 2022-261151

This correspondence is in response to the above-referenced complaint.

- **The Complainant – Donna Toews**

I do not know Donna Toews.

She has never been my client.

To my recollection I have never had any direct contact with Ms. Toews.

I have never made any representations to her.

- **Kip Warner**

Kip Warner has never been my client. I have never had any direct communication with Mr. Warner. I have had contact, through Mr. Warner's solicitor, as set out below, to issue a caution with respect to his defamatory statements against me, and interfering with my solicitor-client relations, including with Vaccine Choice Canada and Action-4- Canada.

- **Vaccine Choice Canada**

Vaccine Choice Canada (hereinafter "VCC") has been a client of my law firm since 2015.

I act on their behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

I have 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.

Neither Ms. Toews, nor Mr. Warner, are on the Board of Directors of VCC.

- **Action -4-Canada**

Action-4-Canada has been a client of my law firm since October, 2020.

I act on their behalf giving legal advice, consultations, issuing legal opinions, and conducting litigation for them under the instructions of their Board of Directors, through their president.

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

Neither Ms. Toews, nor Mr. Warner, are on the Board of Directors of Action4Canada.

- **Pertinent Chronology leading to Donna Toews' Complaint**

On or about October, 2020, I was approached by Action-4-Canada, and other co-Plaintiffs for a lawsuit, however the retainer was not yet crystalized.

On or about December 14, 2020 I received a call from a British Columbia lawyer, Ms. Polina H. Furtula. This lawyer was contemplating legal action against the British Columbia government over the COVID-19 measures imposed there. She requested that I collaborate with her, owing to my expertise in constitutional law and proceedings against the Crown. She indicated that her prospective clients were Mr. Kipling Warner and his organization Canadian Society for the Advancement of Science in Public Policy.

I respectfully declined, and advised Ms. Furtula that I 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.

In January 2021, I began working on the Notice of Claim (Statement of Claim) for my clients, Action4Canada and the co-Plaintiffs.

On January 29, 2021, I received a letter from Ms. Furtula. I attach that letter as **Tab 1** to this my response. The organization she represented, Canadian Society for the Advancement of Science in Public Policy, was established and run by Kip Warner. Contrary to what Ms. Furtula asserts in her letter, I did **NOT** invite her to participate in the constitutional challenge I was bringing on behalf of my clients.

Within a few days, an independent journalist, concerned about the contents of an email he received on behalf of Kip Warner and the Canadian Society for the Advancement of Science and Public Policy ("CSAPP"), Kip Warner, forwarded that email to my client. I attach this email as **Tab 2** to this my response.

On February 3rd, 2021, I responded to Ms. Furtula's letter. I attach my response as **Tab 3** to this my response. In this same letter, I also communicated with Mr. Warner's lawyer, Ms. Furtula, to issue a warning about Mr. Warner's defamation.

On August, 2021, I finalized and issued the Action4Canada, et al, Notice of Claim (Statement of Claim) in the British Columbia Court. I attach a copy as **Tab 4** to this my response. This claim is on behalf of **various** Plaintiffs, Action4Canada being one.

From August to Christmas, 2021, the Defendants to this British Columbia Statement of Claim dragged their heels over whether they would accept service for various Ministries and officials and requested an indulgence past the normal 30 days, to respond, which I granted. They also indicated that they wished to bring various motions to strike. I asked that they do so as soon as possible, under the instructions of my clients.

By Christmas day, 2021, the Defendants had not brought their motions. Over Christmas I became very ill. On December 25th, 2021, I was bed-ridden. On January 2nd, 2022, I was admitted for a critical illness to the ICU in hospital.

After being admitted to hospital on January 2, 2022, I entered a very serious and life-threatening 11-day coma during which coma I came, three (3) times, under a minute from being declared dead. Through the grace of God, I survived. On or about January 13th, 2022, the Defendants bought their motions to strike returnable February 22, 2022. Meanwhile, while I was in a coma and incapacitated under s.37 of the *Law Society Act*, I remained in a public hospital until my discharge on January 22, 2022. When I was no longer critical, but still acute, I was immobile and still required one-on-one nursing and acute medical care. I discharged myself as a patient from hospital and I had myself transferred by private ambulance to recover in a private medical setting with 24/7 care.

I did not return home until March 2, 2022, to continue recovering. I still have not regained full recovery at present.

The motion to strike set for February 22, 2022 was adjourned by my office to May 31st, 2022 in the hopes that I would be sufficiently and competently capable of arguing the various motions to strike via zoom-link. I was granted permission to appear by zoom-link and argued the various motions on May 31st, 2022. The various motion(s) to strike were heard on May 31st, 2022 and the Court has reserved its decision.

- **Donna Toews and Kip Warner**

I note, and learn for the first time, from your disclosure, that in January, 2022, while in hospital and in a coma, which was widely publicized (in fact false obituaries claiming I was dead emerged and ones are still online), Kip Warner was in communication with Donna Toews on how to make a complaint to the Law Society about me.

Kip 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". Kip Warner, in discussions with the President of VCC, Mr. Ted Kuntz, insisted that because he (Kip Warner) "filed first", that the Action4Canada British Columbia claim had to be withdrawn and all donations to Action4Canada be returned, with the implication that they be forwarded to him to support his

litigation instead. Why? God only knows. But these are all details which are relevant to the present complaint.

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 and monopoly to litigate the covid-measures in British Columbia. In pursuit of this he goes to all ends. (See **Tab 3** email to journalist).

Also attached as **Tab 5**, is a print-out from the CSASPP’s website, (with Kip Warner as prime actor) continues to make defamatory statements against me and my colleagues. The irony is that the British Columbia Supreme Court struck Mr. Warner as a Plaintiff in one of his cases, for lack of standing. Attached, as **Tab 6**, is a copy of that decision.

Mr. Warner can litigate when and where he wishes. What he cannot do, is instigate defamatory statements, and conspire with Ms. Toews, to issue baseless LSO complaints to “see me disbarred.” I note, and find it distressing, that in her complaint to the LSO, Ms. Toews requests that her identity be kept from me.

At this point, I have had enough with Mr. Warner, and have issued legal action against him, and Ms. Toews, over this last straw. Attached, at **Tab 7** is a copy of the Statement of Claim.

- **The Nature of My Practice**

I started my career (1987-1990) with the Department of Justice and since then, to the present, have been engaged in private practice mostly restricting my practice to proceedings against the Crown. Attached, as **Tab 8**, is a copy of my curriculum vitae, current to February, 2018.

Also attached as **Tab 9**, is a copy of all my reported cases, in the jurisprudence, which I argued, amongst many others that were not reported, current to 2019.

During the course of my career, in defending constitutional rights, I have had to withstand the relentless personal attacks, and several viable death threats, from racists, anti-Semites, and extremists who took issue with my Calabrian, Jewish heritage and/or my clients, labelling them and me, as “mobsters”, “terrorists” or “anti-vaxxer”.

The COVID-19 era is no exception. This is the **8th (!)** complaint, against me and one of my junior lawyers, the LSO has brought to my attention since the commencement of COVID-19 legal proceedings by my law firm on behalf of clients, just for doing our job(s) as lawyers, to the letter and spirit of Rule 5.1-1. In two of those complaints, the complainants were Defendants in cases we were conducting. I attach, as **Tab 10**, a copy of a Statement of Claim against one such racist anti-Semite, who made two (2) complaints against me, and one against my junior lawyer.

In my response to yet another one of those LSO complaints by the same person, attached here as **Tab 11**, on September 21, 2021, I stated the following to the intake and resolution counsel:

The other thing I cannot fathom is the Law Society of Ontario’s approach and conduct in forwarding this to me for response at all. Ms. Nassar was on the previous Moore complaints. There seems to have been absolutely no minimal review of them, nor Ms.

Moore's website, to glean what Canuck Law and Ms. Moore are about with respect to me and my clients.

In my last correspondence, on a similarly outrageous complaint, by an outrageous individual, with respect to an attempt to censor my speech, I indicated that the next time I received one of these, I would commence action against the LSO, in the absence of an apology.

If I do not receive an apology from the LSO on this "Complaint" which should not even have reached me, if the minimum of research was done on Ms. Moore and her website, I will commence action against the LSO for negligent investigation and the newly-created tort of (online) harassment because, it seems to me, that the LSO is more than content and willing to be dupe and conduit for Ms. Moore's and Canuck Law's filth, anti-Semitic, racists, and derogatory harassment of me and my clients.

Attached, as **Tab 12**, is another response to yet another complaint similar to the one you have forwarded me for response by the LSO.

All previous 7 complaints have been dismissed, but I never received any apology, regret, nor recognition that anything was amiss in the Kingdom of the LSO, for negligence in screening frivolous and vexatious complaints against members who fearlessly execute their duty to the client, while suffering attacks on their reputation and practise in representing what some members of the general public refer to as "distasteful" clients. The lack of screening, research and furtherance of frivolous and vexatious complaints in light of the above warrants redress and is contrary to the principles set out under s.4.2. of the **Law Society Act**. With respect, it is actionable in damages, and other administrative and constitutional law redress.

- **Response to your Letter of May 2022**

Let me say, with respect, that it is obvious to me that, prior to sending your assumption-laden and, might I say, prejudicial accusations and threatening reference to s.49.3(2) of the **Law Society Act**, letter of May 19, 2022 for "response", you did absolutely no preliminary inquiry into either Ms. Toews nor her enabler Mr. Warner. In turn, as in previous frivolous and outrageous complaints I have had to respond to, the LSO becomes enabler and provides a platform for abuse.

You assumed that Ms. Toews was a client, notwithstanding that it is clear from Ms. Toews intake form, that she has **never** been my client.

Whatever donations Ms. Toews may have made, "on behalf of husband", to either VCC, or Action-4-Canada, have **nothing** to do with me. I have no knowledge of them, NOR any responsibility for them. I am retained by the organizations under the instructions of their Board(s), on a fee for service basis.

I never made **any** representations to Ms. Toews, let alone her husband, nor do I have any duty to report nor respond to her, even if she had contacted me, which to my recollection and knowledge she did not.

As to what happened to any purported donated funds to VCC or Action-4-Canada is beyond my knowledge and concern. However, in the spirit of co-operation I forwarded the complaint to my

clients and they have responded. I attach, at **Tab 13**, a letter from Vaccine Choice Canada and at **Tab 14** a letter from Action-4-Canada.

My clients have indicated that they do not want me to disclose solicitor-client privileged information as they are not complaining about me. I am instructed by the Boards of Directors of Vaccine Choice Canada and Action4Canada. Neither Ms. Toews nor Mr. Warner are on those boards.

In answer to the specific questions in your letter, I reproduce the questions and insert my answers below to your questions.

Question:

- **Please Advise what happened to the funds that Ms. Toews donated to Vaccine Choice Canada and Action4Canada, i.e., where were those funds directed to specifically?**
- **What is the relationship between you and Vaccine Choice Canada and Action4Canada? What is your role within these organizations?**
- **When Ms. Toews made her donations to these organizations, did she sign any forms? If so, please provide these.**

Answer: I have **no** involvement in the organizations, including any fund-raising efforts, and have no knowledge as to how these organizations spend their money. Both clients have retained me and paid me for legal advice, consultations, and opinions, as well as litigation.

Question:

- **Please advise:**
 - **-how much monies have been raised through donations to support the constitutional challenges?**
 - **In what form have these monies been received?**
 - **Are these funds being held in trust?**
 - **Have/are these funds been applied for their intended purpose? Please explain.**

Answer: See previous answer to first three questions. I have no role and no knowledge of my clients' fund-raising efforts or details with respect to fund-raising to run their organization(s), their operations and activities, nor expenses, including legal expenses. I have been paid by my clients for my services. I was paid by cheque(s) from these two organizations for services rendered.

Question:

- **What is the status of the constitutional challenge(s) that these funds are supporting/? Are you personally involved in these legal challenges?**

Answer: The status of these legal challenges is:

(a) Action4-Canada: awaiting decision on various motions to strike.

(b) VCC: The litigation is progressing in accordance with my client's instruction(s) and litigation strategy. (My client has, and had, a litigation strategy which they do not wish to fully disclose). My clients provide regular updates to their members.

I am personally in charge of the litigation.

Question:

- **Are you or another entity providing regular updates to donors? If so, how often and in what form are these updates provided?**

Answer: We (my firm) never have, nor are we, providing any "updates" to donors, as they are not our clients. The organization(s) provide updates **to their members**. On regular occasions, I have attended, at the request of my clients, zoom-meetings, in the form of "Q and As", with **my clients' members** to update and take questions on the state of law with respect to the COVID-19 measures, persons' duties/obligations and rights, and legal proceedings and decisions in Canada and other jurisdictions.

Question:

- **Please Respond to Ms. Toews Allegations that**
 - **she received no information about the progress of the constitutional litigation until after almost 18 months**
 - **Vaccine choice Canada, Action4Canada, and a third organization in Quebec have raised approximately 3.5 million to finance litigation in Ontario, British Columbia and Quebec.**
 - **She was not invited to any "members only" meetings with you as Vaccine Choice Canada had advised.**

Answer: What Ms. Toews has received, or not received, from VCC, is between her and VCC. What does this have to do with me? I repeat, she is not my client. I do not know her. I have never met her. I have had no communication with her. And, by the way, I am not telepathic.

With respect to her reference to \$3.5 million raised, I have no clue as to what she is referring to. I have no knowledge of how much money is/was received by VCC or Action4Canada, or "third organizations in Quebec, Ontario, or British Columbia", whomever they may be. It would have been prudent to put the questions to Ms. Toews to obtain particulars as to that assertion, which is far, wide, and nebulous, and lacks any source. In any event, this question cannot possibly be answered by me. Would you

expect an independently retained lawyer, retained to represent the Cancer Society or Salvation Army on a specific legal proceeding, to account for donations or donors to the Cancer Society or Salvation Army?

With respect to not being “invited” to any ‘members only’ meetings”, I am not the host of any of those organized or scheduled meetings, which my clients **sometimes** request that I attend. Incidentally, I do **NOT** have knowledge of or attend all those meetings, I am asked, by my clients, to attend specific meetings. There is no legal precedent specifying that a donor to an organization has the right to examine, challenge, and review the litigation strategy and pierce the solicitor-client relationship of the organization and their legal counsel. Hence, the allegation of “misleading” the donor, and “not acting with integrity” is baseless, preposterous and demonstrative of malice and/or bias.

I repeat my assertion that this complaint should never have reached me for response as it is clear from the intake-sheet that the complainant is NOT one of my clients, nor is there any indication that she ever communicated with me. Furthermore, any complaints, or questions, that Ms. Toews may have, are properly directed to the organizations and not me.

Duty of Fairness and Abuse of Discretion

As Intake and Resolution counsel you have discretion under s.49.3(1) of the **Law Society Act**, on whether to conduct an investigation or not, or put a complaint to a lawyer for response.

The LSO is not required to pursue every single random complaint, by unknown and unvetted individuals, against its members. Since there is discretion, the exercise of that discretion must be able to withstand some scrutiny and must, **de minimus**, meet the requirements of reasonableness. In exercising your delegated statutory authority and discretion under s.49.3(1) of the **Law Society Act**, you also owe a duty of fairness and this includes adherence to the principles of fundamental justice and the rule against bias at every step of the intake and investigation process as well as resolution of complaints in a fair and impartial manner.

Abusing the exercise of statutory authority, on the other hand, and abusing your discretionary power, results in the loss of jurisdiction. It is my submission that the Law Society does not have jurisdiction to proceed on Ms. Toews complaint and to do so is abusive.

With respect, the decision to conduct an investigation into, or, even the referral of the complaint of Ms. Toews for my response, exudes unfairness, and unreasonableness.

Notwithstanding that I requested particulars on these allegations, none were provided. In light of the fact that this is the ninth (8th) complaint entertained by the Law Society (specifically for COVID-19 litigation) in the course of two years alone, requiring extensive time and effort for response, is causing professional stress and mental distress, particularly at a time when I am physically vulnerable, for health reasons, is also tortious and actionable conduct.

With respect, given the (non) facts, the history, and context of these past and present allegations, the pursuit of this complaint is scandalous, insultingly prejudicial, and, frankly, stem and flow, unfortunately, from the same source of personally unfounded attacks against me as a person of Calabrian Jewish ancestry who represents views and clients despised by the majority of “Canadians”, on constitutionally unpopular grounds. I regret to say that both as a lawyer, and former Benchers, some members of the public consider my clients and their causes “distasteful”. Throughout my 33 plus years of practice, these personal attacks have been unfortunately just run-of-the-mill for me. This position and motive for random, non-client, unrelated, disgruntled “public” complaints against me, and my law practice, was made clear to the LSO on the previous frivolous and vexatious complaints, which were eventually dismissed. As counsel, you must execute the duty of fairness and apprise yourself of the context and history of the relationship between the present complaint and those of the past. You must also, at a minimum, ascertain, who the complaint and her affiliates are, the reasons for the complaint and the applicable **Rules**, based on facts, and not assumptions, **prior** to advancing the complaint asserting very serious allegations against me, to my attention for response. You failed to do so, and instead, have required me to do your work for you notwithstanding that I requested particulars on these allegations, and none were provided. At this point, after suffering seven prior ignorant abusive complaint allegations, I am justified in asking the question, “why is the LSO so quick to jump on the proverbial assumption accusation bandwagon”?

- **Your Erroneous Characterization of “Misleading and Did Not Act with Integrity”.**

Your statement to me, in your email dated May 24th, 2022, takes this complaint beyond the pale when, in answer to my request for particulars, you stated:

With respect to the regulatory issues identified, these stem from Ms. Toews' complaint. Ms. Toews stated that she wanted her donations to be directed to you as the lawyer retained to bring constitutional challenges. However, she expressed concern that the funds may not have been applied to their intended purpose in view of the length of time since the litigation was funded and a statement of claim issued; the lack of updates provided to her; and a lack of transparency including her not being invited to 'members only' meetings with you. As such, the 'misleading' issue is directed to whether you may have misled Ms. Toews (and other similar donors) regarding the purpose and use of the donated funds.

The allegation of 'did not act with integrity' flows from this and concerns whether or not you were honest and transparent with those who made donations to fund the constitutional litigation.

It is apparent from her complaint form, that she never hired me, yet you jumped to those postulations. There is no duty to report to each and every donor of my client organization. I have no privity with them. I make, and made, no representations to them. Let alone “mislead” them. You have misapplied the **Rule**.

Neither Ms. Toews nor Mr. Warner are my clients. The standards of professional conduct I am required to meet are to be measured by the services I provide **my clients**

I have never had “any dealing in the course of my practice” with Ms. Toews. I have no relationship with her whatsoever.

Moreover Ms. Toews is directly and individually connected with Mr. Warner. Your intake failed to ascertain this. Had you performed this very basic and minimal scrutiny, the absurdity of the allegations, and that I am required to respond to an allegation that I have breached of the Rules, would become apparent.

The Rules cannot be stretched to an overly broad application to random, unrelated unknown members of the public who have a vindictive axe to grind with a lawyer. To propose such an overly broad application would cause the LSO complaints process to be inundated with frivolous, vexatious and abusive complaints and bring the administration and regulation of the profession into disrupt and disposition.

(a) “Misleading”

“Misleading appears in the Rules of Professional Conduct in the followings categories:

Marketing of Professional Services

4.2-0 In this rule, "marketing" includes advertisements and other similar communications in various media as well as firm names (including trade names), letterhead, business cards and logos.

4.2-1 A lawyer may market legal services only if the marketing

(a) is demonstrably true, accurate and verifiable;

(b) is neither **misleading**, confusing, or deceptive, nor likely to mislead, confuse or deceive; and

(c) is in the best interests of the public and is consistent with a high standard of professionalism.

As explained above, I did not market my services to this complainant. She is not my client, she has not hired me, I have never met or communicated with her. Ms. Toews **may** have sent a donation to organizations who have independently hired me to conduct litigation for them pursuant to a private retainer. The organization did not hire me based on any “marketing” whatsoever. There is no evidence or information in the complaint that I engaged in marketing that contravened the Rules because none exists. This can be confirmed by my clients, VCC and Action4Canada. The fact that these organizations collect donations to use at their discretion, and the terms of their donations, and how they allot their donations are between the organizations and their donors. I have nothing to do with it and therefore cannot account to you for it either. Therefore, the **Rule** is inapplicable.

The Rules of Professional Conduct also state, about “misleading”:

SECTION 4.1 MAKING LEGAL SERVICES AVAILABLE

Making Legal Services Available

4.1-1 A lawyer shall make legal services available to the public in an efficient and convenient way.

Restrictions

4.1-2 In offering legal services, a lawyer shall not use means that

- (a) are false or **misleading**;
- (b) amount to coercion, duress, or harassment;
- (c) take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet had a chance to recover;
- (d) are intended to influence a person who has retained another lawyer or paralegal for a particular matter to change that representative for that matter, unless the change is initiated by the person or that representative; or
- (e) otherwise bring the profession or the administration of justice into disrepute.

As explained above, Ms. Toews is not my client, I have never communicated with her or misrepresented to her. I did not offer legal services to her. She never retained me. I did not request or solicit donations from her on behalf of any client or for my client’s litigation. The fact that she may have sent donations to organizations is between her and those organizations. This **Rule** is inapplicable.

(b) “Did not act with Integrity:

The Rules of Professional Conduct discuss “integrity”, as follows:

SECTION 2.1 INTEGRITY

2.1-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with **integrity**.

Commentary

[1] **Integrity** is the fundamental quality of any person who seeks to practise as a member of the legal profession. If a **client** has any doubt about their lawyer's trustworthiness, the essential element in

the true **lawyer-client** relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed, regardless of how competent the lawyer may be.

[2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

[3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the **integrity** of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair a client's trust in the lawyer, the Law Society may be justified in taking disciplinary action.

[4] Generally, however, the Law Society will not be concerned with the purely private or extra-professional activities of a lawyer that do not bring into question the lawyer's professional integrity.

[4.1] A lawyer has special responsibilities by virtue of the privileges afforded the legal profession and the important role it plays in a free and democratic society and in the administration of justice, including a special responsibility to recognize the diversity of the Ontario community, to protect the dignity of individuals, and to respect human rights laws in force in Ontario.

2.1-2 A lawyer has a duty to uphold the standards and reputation of the legal profession and to assist in the advancement of its goals, organizations and institutions.

Commentary

[1] Collectively, lawyers are encouraged to enhance the profession through activities such as:

(a) sharing knowledge and experience with colleagues and students informally in day-to-day practice as well as through contribution to professional journals and publications, support of law school projects and participation in panel discussions, legal education seminars and university lectures;

(b) participating in legal aid and community legal services programs or providing legal services on a pro bono basis;

(c) filling elected and volunteer positions with the Law Society;

(d) acting as directors, officers and members of local, provincial, national and international bar associations and their various committees and sections; and

(e) acting as directors, officers and members of non-profit or charitable organizations.

[2] When participating in community activities, lawyers should be mindful of the possible perception that the lawyer is providing legal advice and a lawyer-client relationship has been created.

Notwithstanding my pointed request for particulars on how “integrity” was engaged, you did not provide any factual particulars. I submit that tis because none exist.

There are no facts in Ms. Toews’ complaints that provide basis for allegations of “dishonourable or questionable conduct”, indeed, no such conduct has been identified. Rule 2.1 should not be invoked and abused, for unauthorized purposes, or for acting on irrelevant considerations. The fact that Ms. Toews may have made a donation to my client is an irrelevant consideration. The **Law Society Act** does not authorize an investigation on that basis. Courts have frequently held that it is *ultra vires* for a statutory delegate to do so. Courts have also struck down arbitrary exercises of discretion where the delegate has acted upon no evidence or has ignored relevant considerations.

Contrary to your allegation, in all aspects, I upheld my obligations and acted with integrity in my dealing with both my clients, and others.

• **Rule 5.6-1**

Rule 5.6-1 states:

Encouraging Respect for the Administration of Justice

5.6-1 A lawyer shall encourage public respect for and try to improve the administration of justice.

I have not breached Rule 5.6 (1) of the **Rules**. You have not provided any evidence or allegation that I have. On the contrary, I have spent my entire career trying to improve the administration of justice and encourage public respect for it and the Rule of Law. My practice consists of litigating the most difficult of cases, often successfully. These are often perceived or labelled as "controversial cases" whereby individual unrelated and random unrelated members of the public having erratic and vile reactions against me personally for simply doing my duty as a constitutional lawyer, practising according to my oath. It has become “controversial” to question government policy on the Covid-19 and as a lawyer, representing clients who do question the government policy have come under attack.

In practising law, in a manner that upholds Rule 5.6-1, I have, regrettably, been the recipient of hate mail and subject to personal attacks and threats to my safety and my life. This is a regrettable, but not a new, phenomenon for me. When I represented clients charged pursuant to the Security Certificate provisions of **IRPA** and/or the Terrorism provisions of the **Criminal Code** I was virulently and invidiously slandered as a "terrorist lawyer", a "terrorist sympathizer" and even as a "terrorist" by random individual members of the public. That I "put the right of terrorists over citizens" and that I "defend citizenship of terrorists" are other examples. Those who attacked me believed in the global "war on terrorism" and that I was not entitled, as an advocate, to criticize or challenge the government's law in my statements or pleadings on behalf of my clients. These individuals alleged that by representing my clients, and making statements regarding the racism and racial profiling my clients were subjected to as Arabs and/or Muslims, by security services, in this country and elsewhere, that I was "a threat to the public" and the "security" of Canada.

Often the hate-mail directed against me, sometimes disguised and cloaked as a "complaint", were coloured with racial bias and prejudice, and ethnic stereotyping, not only against my racial minority clients, but also against me as their ethnic minority lawyer. This is graphically illustrated by the institutional death threat I received while representing a Canadian citizen who was detained at Guantanamo Bay on allegations of "terrorism", wherein the "anonymous" caller demanded I cease representing "terrorists, or you a dead WOP!"

Revealingly, my non-ethnic and non-racial minority colleagues in the Bar, who also advocated on behalf of "terrorists suspects" and with whom I am well acquainted, did not receive the same barrage of hate mail or threats. This is not surprising given that many Royal Commissions, the SCC and the LSO have acknowledged the existence of racial and ethnic bias in the justice system and the legal profession. Racial and ethnic minority lawyers are disproportionately targeted for harsher treatment and unbridled harassment. They face discrimination within their own profession and prejudice from society and its members at large. Systemic and individual prejudice is pervasive.

It has not escaped me to consider ethnic malice as a root cause of this complaint. I have encountered this before: "Who does this Italian lawyer think he is to challenge our Canadian laws?". My suspicions are borne out in the current COVID context as I have received hate mail which is demeaning, reprehensible and xenophobic intended to intimidate me as an advocate. I am denominated as a: "scum lawyer", "mob lawyer", "mobster" - all referring to the stereotype of Italians as members of organized crime. That I "wasn't even born in Canada", that I am "a foreigner trying to change laws", and that I "will never be a Canadian, except in the civic sense, and even that is questionable."

However, what is equally troublesome and regrettable phenomenon for me, is that the LSO would give credence to the hate and prejudice, as illustrated by previous complaints forwarded by the LSO against me which I've had to respond to in order to dismiss. The LSO should act as a gatekeeper to defend the advocate who encourages public respect for and improvement to the administration of justice, as evidenced by my litigation record. Rather than defending the advocate for ethically and fearlessly

executing his duties, I am disheartened to learn that the LSO can be used as a vehicle for attacking a lawyer doing his/her job instead. To the extent that the LSO enables and allows for such harassment and attacks on me as a member, is an abuse of authority and discretion and constitutes tortious conduct. Furthermore, the **Rules** apply equally to you as a member personally and in your capacity as intake counsel. In particular, I would remind you of **Rule 7-2-1** and the requirement to “avoid ill-considered or uninformed criticism of competence and conduct”. Ms. Toew’s complaint, as well as that of her predecessor complainants with respect to COVID-19 litigation is frivolous and vexatious. Had you conducted the minimal research that I have, you would have arrived at this conclusion. By misapplying misusing and abusing your authority and amplifying and escalating the complaint in the manner that you have is a breach of your duty under Rule 7.

- **Rule 5.1-1: Lawyer as Advocate**

In closing, as a former elected Benchers, I completely understand your role in the Law Society's protection of the "public interest". I know that your job is not an easy one and your work-load is heavy. However, with the utmost respect, this "complaint" was not diligently, or competently vetted, examined or researched before being passed on to a member for response. Unfortunately, it could constitute institutional "rubber stamping" of targeted character assassination and motive to “disbar” and ruin a member's legal career by disgruntled and random unrelated non-client individuals. It could also encourage the proliferation of hate-mail and retaliatory vindictive "complaints" against lawyers.

The intake process must act, in part, as a gatekeeper to sift through spurious and misdirected rantings and scandalous allegations (intended to intimidate and harass lawyers from acting as advocate), from that of legitimate complaints. This is not the LSO’s first failure within the COVID litigation context.

I would remind you of Rule 5.1-1, which reads:

5.1-1 When acting as an advocate, a lawyer shall represent the client resolutely and honourably within the limits of the law while treating the tribunal with candour, fairness, courtesy, and respect.

And the first commentary to that Rule which reads and dictates that:

[1] Role in Adversarial Proceedings - In adversarial proceedings, the lawyer has a duty to the client to raise fearlessly every issue, advance every argument and ask every question, however distasteful, that the lawyer thinks will help the client's case and to endeavour to obtain for the client the benefit of every remedy and defence authorized by law. The lawyer must discharge this duty by fair and honourable means, without illegality and in a manner that is consistent with the lawyer's duty to treat the tribunal with candour, fairness, courtesy and respect and in a way that promotes the parties' right to a fair hearing in which justice can be done. Maintaining dignity, decorum

and courtesy in the courtroom is not an empty formality because, unless order is maintained, rights cannot be protected.

The LSO is tasked with protection of the public, but also of the legal profession and its members, regardless of the client or case. Rule 5.1-1 is a cornerstone for Canada's justice system. The intake counsel's job is to not only protect the public, but also protect the profession from the public's vile, unjustified, false, and scandalous attack on lawyers, which is not in concert with the "public interest". It is not in your jurisdiction and mandate to jump on the proverbial "hate bandwagon".

In another context, outside of a Regulatory complaint, Donna Toews would have been successfully sued for defamation for her comments, and not be the assumptive springboard from which to catapult an unsubstantiated query sent to me for response. Ms. Toews comments and complaints are unfoundedly outrageous and malicious. That Kip Warner, given his history, added the fuel to the fire, is the more offensive. Yet, regrettably, you acted on them.

After this 8th, post-COVID, "from -COVID", "with COVID", LSO baseless complaint, I still await a LSO apology for having had to respond to them, failing which I will seek redress for unauthorized abusive conduct through legal proceedings in the Courts.

In responding to this complaint, I was required to disclose my personal health information as defined in the ***Personal Health Information Protection Act*** which is strictly private and highly confidential. While I have made this information available only to you, I do not authorize the disclosure or release of my private health information to anyone else, particularly the complainant and her affiliates and co-conspirators. I trust that any and all of my personal health information will be strictly protected.

Yours very truly,

Per:



Rocco Galati, B.A., LL. B, LL.M.

RG*sc

Encls.



"SCHEDULE B"

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.
10th 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

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

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 benchler 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 15th, 2022, which was forwarded by the Law Society to the Plaintiff on May 19th, 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 3rd, 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 25th, 2021, the Plaintiff was bed-ridden. On January 2nd, 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 13th, 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 31st, 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 31st, 2022. The motion(s) to strike were heard on May 31st, 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 15th, 2022, Ms. Toews filed her complaint to the Law Society of Ontario, which was forwarded to the Plaintiff on May 19th, 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

(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 28th day of June, 2022.


ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati
1062 College Street, Lower Level
Toronto, Ontario M6H 1A9
TEL: (416) 530-9684
FAX: (416) 530-8129
Email: rocco@idirect.com

Lawyer for the Plaintiff, on his own behalf

☒ RULE/LA RÉGLE 26.02 (A)

"SCHEDULE C"

Court File No.: CV-22-00683933-0000

☐ THE ORDER OF
L'ORDONNANCE DU
DATED/FAIT LE
REGISTRAR
SUPERIOR COURT OF JUSTICE
GREFFIER
COUR SUPÉRIEURE DE JUSTICE

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

ROCCO GALATI

Plaintiff

- and -

SHARON GREENE, THE DIRECTOR OF INTAKE AND RESOLUTION, THE LAW
SOCIETY OF ONTARIO ("LSO")

Defendants

AMENDED 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.

EFILED

Date: 12-JUL-2022 , Issued by:

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

TO: Sharon Greene
Intake and Resolution Counsel
Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: SGreene@lso.ca

AND TO: Intake and Resolution Director
Complaints & Compliance
Law Society of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N6
General line: 416-947-3315
Toll-free: 1-800-668-7380
Fax: 416-947-5263
Email: comail@lso.ca

AND TO: Law Society of Ontario
393 University Avenue, Suite 1100
Toronto, Ontario
M5G 1E6
Email: lawsociety@lso.ca

CLAIM

1. The Plaintiff claims:

(a) General damages as against the Defendants, as follows:

- (i) \$500,000.00, as against the Defendants, in negligent investigation, abuse of authority and process, breach of fiduciary duty, breach of statutory duty, interference with economic interests, intimidation, and violation of the Plaintiff's s.7 and s.15 *Charter* rights;
- (ii) Pre-judgment and post judgment interest pursuant to s. 128 of the *Courts of Justice Act R.S.O. 1990 c. C43*; and
- (iii) costs of this action on a full indemnity basis and such further or other relief as this Court deems just.

(b) A declaration that s. 49.3 of the *Law Society Act*, in the absence of a client complaint to the Law Society of Ontario, violates s.7 and 8 of the *Charter*, is not saved by s.1 of the *Charter* and should be accordingly "read down" pursuant to ss.24(1) and s.52 of *the Constitution Act, 1982*.

(c) A further Declaration, if necessary, that s. 9 of the *Law Society Act* violates ss. 7 and 15 of the Charter, emanating from the Rule of Law, in granting immunity from intentional and non-intentional tort, as well breaching the right to Independence of the Judiciary.

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 the 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, with previous Presidents' Awards having been bestowed on judges and two (2) advocacy groups.
4. Between May 2015 and May 2019, he served as an elected benchler 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, 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, 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 co-authored books, namely: “*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, Sharon Greene, is an Intake and Resolution Counsel with the Law Society of Ontario.
10. The Defendant, the Director of Intake and Resolution, is an employee with the Law Society of Ontario, and the Defendant, the Law Society of Ontario, is a statutory and

corporate body, and both are responsible for the oversight of the various Intake and Resolution counsels at the Law Society of Ontario, including their training to ensure competence and further to ensure that those counsel act in good faith. absence of bad faith, and are fair and reasonable in their role as Intake and Resolution counsel.

11. The Defendant, the Law Society of Ontario, is a successor to the Law Society of Upper Canada, established in 1797 and is, at common law, and under the *Law Society Act* statutorily, charged with the regulation of Barristers, and Solicitors, and “Licensees” as defined post 1992, and, as a statutory body and corporation, is liable, for the actions of the Co-Defendants, Sharon Greene and the Director of Intake and Resolution.

FACTS

- **The Nature of the Plaintiff’s Legal Practice.**

12. Throughout the Plaintiff’s legal career, especially to and including March 11th, 2020, the declared COVID-pandemic, the Plaintiff has been the subject of racially-based, abusive and frivolous complaints from government departments against whom he litigates, as well as self-generated LSO complaints based on newspaper and other media posts, and the racist/anti-Semite prone members of the public of large with nothing better to do than grind their racist axe. **None** of any of these numerous complaints, over the 33 plus years of the Plaintiff’s practice, were ever referred to any disciplinary hearing, or any other disciplinary action.
13. The Plaintiff started his career (1987-1990) with the Department of Justice and since then, to the present, has been engaged in private practice mostly restricting his practice to proceedings against the Crown.

14. During the course of his career, in defending constitutional rights, the Plaintiff has had to withstand the relentless personal attacks, and several viable death threats, from racists, anti-Semites, and extremists who took issue with his Calabrian, Jewish heritage and/or his clients, labelling his clients, and the Plaintiff, as "mobsters", "terrorists" or "anti-vaxxers".
15. The COVID-19 era is no exception. On May 19th, 2022, the Plaintiff received, from the Defendants, the 9th (!) complaint against the Plaintiff and one of his junior lawyers brought to his attention since the commencement of COVID-19 legal proceedings by his law firm on behalf of clients, which complaints have been brought against the Plaintiff and his junior lawyers just for doing their job(s) as lawyers, to the letter and spirit of Rule 5 .1- of the Law Society of Ontario's *Rules of Professional Conduct*. In two of those complaints, the complainants were Defendants in cases the Plaintiff and his firm were conducting.

- **Plaintiff's history with the Law Society Pre-Covid-19**

16. Throughout the Plaintiff's legal career, especially to and including March 11th, 2020, the declared start of the COVID-pandemic, he has been the subject of racially-based, abusive and frivolous complaints from government departments against whom he litigates, self-generated LSO complaints based on newspaper and other media posts, as well as the racist/anti-Semite prone members of the public of large with nothing better to do than grind their racist axe. **None** of any of these numerous complaints, over the 33 plus years of the Plaintiff's practice, were ever referred to any disciplinary hearing.

17. The Plaintiff states that, as a Calabrian with Jewish ancestry, he is a member of historically discriminated group in Canada, including the interment of Italo-Canadians in World War II as well as the long-standing and pervasive depiction of Italians as criminals and “mobsters”. The Plaintiff has also been, personally, the victim, throughout his years, including his teenage years, of racially-based violence on the part of racist Canadians at large, including police officers. He has also faced pervasive discrimination within the legal profession from both lawyers and judges alike.
18. The Plaintiff has never been charged nor convicted of any criminal offence nor been found to have ever committed any breach of the *Rules of Professional Conduct* of the Law Society.

- **Plaintiff’s history with the Law Society Post-Covid-19**

19. Since the declaration of the COVID-19 pandemic, on March 11th, 2020, the Plaintiff and his junior lawyer have been the subject of no less than nine (9) baseless and abusive LSO complaints, some of them with racist over-tones and undertones, with respect to their roles as counsel on cases litigating COVID-19 measures imposed by Provincial and Federal governments.
20. Of those nine complaints, eight were dismissed. However, the LSO required the Plaintiff to respond to three (3), Alexandra Moore, “Lindsay H”, and Donna Toews, of these complaints.
21. The complaints made were chronologically made as follows:

- (i) December 2020, complaint from “Lindsay H.”, through Intake and Resolution Counsel, Samantha Nassar;
- (ii) February 18, 2021, complaint from Terry Polevoy, (a Defendant in a defamation case), through Intake and Resolution counsel, Samantha Nassar;
- (iii) February 18th, 2021, complaint from Alexandra Moore (a defendant in a defamation case) against my junior lawyer, Samantha Coomara, through Intake and Resolution Counsel, Samantha Nassar;
- (iv) February 22, 2021, complaint from Elana Goldfried, through Intake and Resolution counsel, Samantha Nassar;
- (v) August 3, 2021, complaint from Alexandra Moore (a defendant in a defamation Case) through Intake and Resolution Counsel, Miko Dubiansky;
- (vi) November 25th, 2021, a further complaint of Alexandra Moore, through Intake and Resolutions Counsel, Miko Dubiansky;
- (vii) February 4, 2022 complaint of Terry Polevoy (another Defendant in a defamation case) through Intake and Resolution counsel, Sharon Greene;
- (viii) February 4, 2022, two complaints from Franca Lombardi, through Intake and Resolution counsel, Miko Dubiansky;
- (ix) May 19th, 2022 complaint by Donna Toews through Intake and Resolutions counsel, Sharon Greene.

22. After the second complaint, from Alexandra Moore, the Plaintiff wrote to the Law Society on September 21, 2021, and stated as follows:

The other thing I cannot fathom is the Law Society of Ontario's approach and conduct in forwarding this to me for response at all. Ms. Nassar was on the previous Moore complaints. There seems to have been absolutely no minimal review of them, nor Ms. Moore's website, to glean what Canuck Law and Ms. Moore are about with respect to me and my clients.

In my last correspondence, on a similarly outrageous complaint, by an outrageous individual, with respect to an attempt to censor my speech, I indicated that the next time I received one of these, I would commence action against the LSO, in the absence of an apology.

If I do not receive an apology from the LSO on this "Complaint" which should not even have reached me, if the minimum of research was done on Ms. Moore and her website, I will commence action against the LSO for negligent investigation and the newly-created tort of (online) harassment because, it seems to me, that the LSO is more than content and willing to be dupe and conduit for Ms. Moore's and Canuck Law's filth, anti-Semitic, racists, and derogatory harassment of me and my clients.

23. On May 19th, 2022, the Plaintiff received yet another ridiculous, baseless, and unfounded complaint by a non-client, whom the Plaintiff has never met, does not know, nor ever communicated with, namely a Ms. Donna Toews.
24. The Plaintiff, under threat of the powers in s. 49.3 of the ***Law Society Act***, was required to respond to this complaint, without any particulars whatsoever, but simply the misplaced assumption of the Defendant, Sharon Greene. Attached as "Schedule A" is a copy of the Plaintiff's response dated June 29th, 2022, to the complaint, which the Plaintiff forwarded to the LSO. The Plaintiff pleads that "Schedule A" and the documents referred to and forwarded to the LSO with "Schedule A" are documents pleaded in the within Claim.

25. Following receipt of this complaint, the Plaintiff filed action against the complainant and her Co-conspirators, attached as “Scheduled B”. The Plaintiff adopts, relies upon, and incorporates the facts in the statement of claim in “Schedule B” as part and parcel of the within Statement of Claim.

25A. On June 28th, 2022 the Plaintiff participated, as legal counsel for a lawyer undergoing LSO investigation for issues arising from the lawyer's free speech as a private citizen. The lawyer was interviewed by two Law Society investigators one being Jill Cross. During that interview Jill Cross became acrimonious with the legal counsel, Rocco Galati, over objectionable questions, assumptions, and attempts to put words and attribute non-existent conduct to the lawyer being interviewed.

26. Following the Plaintiff’s response to the complaint, dated June 29th, 2022, to the Law Society of Ontario, the Defendant(s), Sharon Greene, and the Law Society of Ontario, continued to pursue the abusive and baseless complaint with the Plaintiff.

- **Action4Canada**

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

28. 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.

29. 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.

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

- **Vaccine Choice Canada**

31. Vaccine Choice Canada (hereinafter “VCC”) has been a client of the Plaintiff’s law firm since 2015.

32. 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.

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

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

34. 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.

35. 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 to view his lawsuit’s GoFundMe page.

36. On or about December 14, 2020, the Plaintiff, in the within action, Rocco Galati, 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".

37. The Plaintiff, Rocco Galati, 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.
38. In January 2021, the Plaintiff began working on the Notice of Claim (Statement of Claim) for Action4Canada and **other co-Plaintiffs**, in British Columbia.
39. 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, Rocco Galati. 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, Rocco Galati, and the case brought by the Plaintiff, and asserted that Kip Warner and the Canadian Society for the Advancement of Sciences in Public Policy had brought their case first and therefore would have "carriage of the matter", and then finally asked Action4Canada to assist them in soliciting donations on their behalf for their legal proceeding.

40. On January 29, 2021, the Plaintiff, Rocco Galati, 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, according to her, the Plaintiff could not file any proceedings on behalf of his clients.
41. On February 3rd, 2021, the Plaintiff, Rocco Galati, responded to Ms. Furtula's letter indicating her client did not have exclusive monopoly to litigation against the Crown. The Plaintiff, Rocco Galati, also, in the same response, issued a warning through Ms. Furtula about Mr. Warner's defamatory conduct against the Plaintiff, Rocco Galati.
42. From January 2021 and onward, the Defendants in the action attached in "Schedule B" hereto, 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.
43. 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. Kip Warner's defamatory comments continue in e-mail correspondence with third parties stating that, with respect to the Plaintiff, "we've been receiving reports weekly, sometimes daily, alleging bad faith, fraud, or other improprieties in Rocco's fundraising arms".

44. 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.: VLC-S-S-217586, in British Columbia.
45. From August to Christmas, 2021, the Defendants to this British Columbian Statement of Claim Court file No.: VLC-S-S-217586, 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.
46. By Christmas Day, 2021, the Defendants had **not** brought their motions to strike. Over Christmas, the Plaintiff became very ill. On December 25th, 2021, the Plaintiff was bed-ridden. On January 2nd, 2022, the Plaintiff was admitted for a critical illness to the ICU in hospital.
47. 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 13th, 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, on January 22, 2022, and he transferred himself to recover in a private medical setting with 24/7 care.

48. The Plaintiff did not return home until March 2, 2022, to continue recovering. He still has not regained full recovery at present.
49. The motion to strike, in British Columbia Action no.: VLC-S-S-217586, which had been set for February 22, 2022, in British Columbia, was adjourned by the Plaintiff's office to May 31st, 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 various motions on May 31st, 2022. The various motion(s) to strike were heard on May 31st, 2022 and the Court has reserved its decision.
50. Through the complaint, provided to the Plaintiff by the Law Society Defendants in the within claim, the Plaintiff learned that, while the Plaintiff lay in a coma, on January 15th, 2022, Kipling Warner was conspiring and encouraging Donna Toews (aka "Dawna Toews") to file a complaint against the Plaintiff with the Law Society of Ontario.
51. On January 15th, 2022, Ms. Toews filed her complaint with the Law Society of Ontario, which was forwarded to the Plaintiff on May 19th, 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 clients’ organizations 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.

52. 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 in the action attached hereto as “Schedule B”.

- **Donna Toews (aka “Dawna Toews”) and Kipling Warner**

53. While in hospital and in a coma, which was widely publicized (in fact false obituaries claiming the Plaintiff was dead emerged and some of which 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.

54. 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. Kip Warner's defamatory comments continue in e-mail correspondence with third parties stating that, with respect to the Plaintiff, "We've been receiving reports weekly, sometimes daily, alleging bad faith, fraud, or other improprieties in Rocco's fundraising arms."
55. 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 goal, he goes to all ends.
56. 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.
57. The Plaintiff states that the Defendants, Mr. Warner and Mr. Gandhi, personally, in their email to the Plaintiff's client, and through their CSASPP 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/lbcb/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

(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 CSASPP, Mr. Kipling, and the other directors of the CSASPP, 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.

58. Following the receipt of the Plaintiff's response to the Defendant, Sharon Greene, Sharon Greene continued to follow up and pursue the complaint, against the Plaintiff, made by Donna Toews with the assistance and instigation of Kipling Warner.
- 58A. On July 12th, 2022 the Plaintiff took action against Donna Toews, Kipling Warner and others, a copy of which claim is attached as "Schedule B" to the within claim.
- 58B. Less than four weeks from the issuance of this claim, on August 10th, 2022, Jill Cross, forwarded yet another complaint against the Plaintiff, arising from a political speech the Plaintiff gave, at Nathan Phillips Square, in November, 2021. This complaint was on the content of his purported speech. This complaint did not emanate with respect to Covid-19 measures, from a client or member of the public, but from the Law Society itself, without disclosing who at the Law Society initiated it. The Plaintiff requested clarification of the complaint and further objected, Jill Cross spear-heading the investigation given their interaction of June 28th, 2022, and further given the same very contextual nature, namely free speech of a private citizen. The Plaintiff fully intends to respond to this latest "complaint" by the timeline set, namely being the deadline of October 30th, 2022.

58C. On September 12, 2022, the Law Society transferred the complaint as overseen by Sharon Greene, to a different investigator. This new investigator notified the complainant, Donna Toews, a copy of which went to the Plaintiff, that given the action commenced against Toews, et al, that the Toews complaint would not be dealt at this time until the outcome of the action in Superior Court, at which time it would be exhumed and taken up again. This notwithstanding that the Plaintiff, Rocco Galati, had fully responded to the complaint.

- **Conspiracy**

59. The Plaintiff states and fact is, that the Defendants in the action attached as “Schedule B”, 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.

60. The Plaintiff further states that the Defendants in the action attached as “Schedule B” further conspired to engage in actionable abuse of process through the Law Society complaint, as well as intimidation (through a third party).
61. The Plaintiff states that the Defendant, Sharon Greene, in the within statement of claim jumped on a co-conspirator bandwagon with Donna Toews, Kipling Warner, and CSASPP, which conspiracy should have been evident to the Defendant, Sharon Greene, if she had carefully read Donna Toews’ complaint form and attached documents, and if Shannon Greene conducted embryonic research and/or investigation of the complaint in a fair and reasonable manner. All of which is indicia of bad faith an absence of good faith.
62. The Plaintiff states that the LSO Defendants joined the actionable conspiracy against the Plaintiff when they adopted the complaint by forwarding the complaint and threatening the use of search and seizure powers under s.49(3) of the *Law Society Act*.
- **The Law Society Complaint as a Tort of Abuse of Process**
63. 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 of process, as a tort, is made out where:
- (a) the Plaintiff is a party to a legal process initiated by the Defendants, in this case a complaint to the Law Society of Ontario;

- (b) the legal process (law society complaint) has been initiated for the predominant purpose of furthering some indirect, collateral and improper objective;
- (c) the Defendants took or made a definite act or threat in furtherance of the improper purpose; and
- (d) some measure of special damage has resulted.

64. The Plaintiff states that Ms. Toews, Mr. Warner, and Mr. Gandhi, and CSASPP, took and made acts, as well as pre and 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 CSASPP, as well as through the vehicle of a baseless, abusive, and bad faith complaint to the Law Society of Ontario. All this damaged and continue to damage the Plaintiff by way of reputation and his solicitor-client relationships.
65. The Plaintiff further states that the Law Society of Ontario Defendants in the within action magnified and augmented that actionable abuse of process and, that putting the Plaintiff through the process of a response, constitutes not only adding to the actionable abuse of process, but further is a separately actionable tort of abuse of process. And, in doing so, manifest bad faith and absence of good faith.
66. The Plaintiff further states that the Defendants in “Schedule B”, in their actions, knowingly intended, and in fact inflicted, mental anguish and distress through their actions against the Plaintiff, all of which go to punitive damages. The Plaintiff further

states that the Law Society Defendants in the within action are further augmenting and inflicting mental anguish and distress.

- **Interference with Economic Interest**

67. The Plaintiff states that, through their conduct and actions, the Defendants in the action attached hereto in “Schedule B” 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.

68. The Plaintiff states that the actions of the Defendants in the action attached hereto as “**Schedule B**”, 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. The Plaintiff further states that the Law Society Defendants in the within action further augmented this interference with the Plaintiff’s economic interest through their actions executed in bad faith and in the absence of good faith.

- **Breach of Fiduciary Duty**

69. The Plaintiff further states that the Law Society Defendants, in the within action, in addition to the duties of fairness and reasonableness, at common law and Administrative Law, and under statute, further owe a fiduciary duty to the Plaintiff, as a Barrister and Solicitor, called to the Bar, by the Chief Justice of the Ontario Court of Appeal in March, 1989, in that the Defendant Law Society of Ontario assumed a fiduciary relationship, and owed a corresponding fiduciary duty of care to the Plaintiff, for the following reasons:

- (a) The Defendants were, and are, in a position of power over the Plaintiff, and were able to use this power so as to control and affect the Plaintiff's interests;
- (b) The Plaintiff was, and is, in a corresponding position of vulnerability toward the Defendants. The Plaintiff was, and is, therefore in a class of persons vulnerable to the control of the Defendants;
- (c) There was, and is, a special position of trust between the Defendants and the Plaintiff, governed by statute, the *Charter*, and the common law;
- (d) The Defendants undertook to act in the best interests of the Plaintiff, in that:
 - (i) it is a statutory, Administrative Law, and constitutional requirement that the Defendants review, assess, and process complaints in a fair and reasonable fashion;
 - (ii) the Plaintiff, and other members of the bar, pay for the administration of the Law Society of Ontario, through their annual fees, including the disciplinary process; and

(iii) it is in the “public interest” that baseless, abusive, and/or racist-based complaints not be entertained and processed against lawyers failure of which is indicia of acting in bad faith and absence of good faith; and

(e) The Defendants breached this fiduciary duty;

And, as a direct result of this breach, the Plaintiff has suffered loss and damages, which include, *inter alia*:

- (a) Damage to reputation and interference with the economic and other dimensions of the Plaintiff’s solicitor-client relationships with past, current, and prospective future clients;
- (b) Loss of dignity; and
- (c) Violation of his psychological integrity guaranteed and protected by s.7 of the *Charter*, as well as violation of his dignity of equal treatment under s.15 of the *Charter*.

- **Negligence (Negligent Investigation)**

70. The Plaintiff further states, based on the facts set out in the within claim, and the jurisprudence, that the Defendants are liable to the Plaintiff in negligence, and negligent investigation, as set out by the jurisprudence, in that:

- (a) The Intake and Resolution Counsel, Sharon Greene, the Intake and Resolution Director, and the Law Society of Ontario, owed the Plaintiff a duty of care to rationally, fairly, and reasonably deal with the complaint against the Plaintiff;
- (b) The Defendants were required to meet the standard of care, where the standard of care is assessed at the “reasonable investigator” (reasonable intake counsel);

(c) The Intake and Resolution Counsel did not meet this standard;

(d) As a result, the Plaintiff suffered and continues to suffer damages as set out in the within claim;

and the Plaintiff further states that the Defendants, the Director of Intake and Resolution, and the Law Society of Ontario, have failed in his/her/their duty to properly instruct and train the Defendant, Sharon Greene, in her statutory, common-law, and constitutional duties in her role, and are equally liable for damages, as direct supervisor and employer.

- **Intimidation**

71. It is further submitted that the Defendants, in dealing with the Plaintiff pre-, but moreover post-COVID-19, since March 11th, 2020, have engaged, for the facts set out in the within claim, in the actionable tort of Intimidation, as defined by the Court of Appeal of Ontario in *McIlvenna v. 1887401 Ontario Ltd.*, 2015 ONCA 830, and other Supreme Court of Canada jurisprudence, as follows:

[23] The tort of intimidation consists of the following elements:

- (a) a threat;
- (b) an intent to injure;
- (c) some act taken or forgone by the plaintiff as a result of the threat;
- (d) as a result of which the plaintiff suffered damages:

- *McIlvenna v. 1887401 Ontario Ltd.*, 2015 ONCA 830

72. The Plaintiff states that this tort of intimidation is most evident in the three (3) complaints the Plaintiff has been required to respond to, which he should not have been required to respond to, but is further evident in his being notified of six other

complaints upon which the LSO did **not** act upon. The Plaintiff states that if the LSO is not acting on complaints, “at this time”, then there was no need to notify the Plaintiff except to remind, and intimidate the Plaintiff as to the menacing presence over the Plaintiff’s professional (and personal) life. This is moreover pronounced in the threat to use the over-reaching powers under s.43.9 of the ***Law Society of Ontario Act*** in Sharon Greene’s **initial** letter forwarding the complaint. These are all indicia of acting in bad faith and absence of good faith.

73. The Plaintiff states, and the fact is, that the Law Society of Ontario Defendants’ actions and conduct, set out in the within statement of claim, are being carried out in bad faith, and in the absence of good faith, and knowingly contrary to their statutory and constitutional duties.

73A. The Plaintiff states that, with respect to all the tortious conduct, and causes of action pleaded, that the Defendants acted in bad faith and absence of good faith and that, in any event, the purported immunity conferred under s. 9 of the **Law Society Act**, is of no force and effect as it violates ss. 2 (freedom of expression), s.7 (psychological integrity), s.15 (equality) of the Charter, as well as the constitutional right of judicial independence in the legislative interference of the judiciary in applying the law unequally, in that no-one is above the law, as emanating from the constitutional imperatives of constitutionalism and the rule of law.

73B. The Plaintiff further states that the Defendant's bad faith, and absence of good faith, is evident, in addition to what is pleaded in paragraphs 10, 43, 54, 61, 63, 64, 65, 68, 69, 72, 73, 73A., **inter alia**, by:

- (a) forwarding, for response, of baseless and repugnant complaints laced with repugnant racial and ethnic over and under-tones as well as defamatory language;
- (b) the harassment of notifying the Plaintiff of complaints, whose substance is undisclosed, which were summarily dismissed, with notification to the Plaintiff, whose only purpose is to harass and remind the Plaintiff that the clients he represents, and his imparted anti-covid measure views are not shared by the Law Society;
- (c) by the retaliatory triggering of another Law Society complaint, again anchored on free speech, apparently self-triggered by the Law Society, merely four (4) weeks after the Plaintiff filed an action against the Law Society;
- (d) the saturated, mere number of complaints, in such a short period of time;
- (e) the history of the Law Society giving countenance to baseless complaints against the Plaintiff laced with racist and intolerant views of both the Plaintiff and his clients.

- **Violation of the Plaintiff's ss.7 and 15 *Charter* Rights**

74. The Plaintiff further states, for the facts pleaded in the within Statement of Claim, that the Defendants violated the Plaintiff's s.7 and s.15 ***Charter*** rights. The Plaintiff further states that these violations are not saved by s. 1 of the ***Charter***, and that he is further entitled to an award of damages pursuant to s. 24(1) of the ***Charter***, to be determined at trial.

- **Declaration of Unconstitutionality of s. 49.3 of the *Law Society Act***

75. The Plaintiff states that, in absence of a client complaint, s. 49.3 of the *Law Society Act* violates ss.7 and 8 of the *Charter*, and ought to be accordingly “read down”, pursuant to ss.24(1) and 52 of the *Constitution Act, 1982*, for violations of ss.7 and 8 of the *Charter*.

- **Section 7 of the *Charter***

76. It is submitted that s. 49.3 of the *Law Society Act* is a standardless sweep and violates s.7, in violating, in an overly-broad and arbitrary fashion:

(a) The Solicitor-Client relationship protected by s.7 in the *Charter* as set out in the Supreme Court of Canada decision of *Canada (Attorney General) v. Federation of Law Societies of Canada, 2015 SCC 7 (CanLII), [2015] 1 SCR 401*;

(b) The privacy interests protected by both the solicitor and client in the Solicitor-Client relationship.

- **Section 8 of the *Charter***

77. The Plaintiff further states that s. 49.3 of the *Law Society Act* further violates s.8 of the *Charter*, in the absence of a client complaint, constituting an unreasonable search and seizure, which brings the administration of justice into dispute and which violation is not saved by s.1 of the *Charter*, and for which it should be accordingly “read down” pursuant to ss.24(1) and 52 of the *Constitution Act, 1982*.

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

78. The Plaintiff states that the Defendants are liable to the Plaintiff, jointly and severally, as set out in paragraph 1(a) of the within Statement of Claim, for the instances and reasons pleaded above, and seeks the relief requested in paragraph 1(a).
79. The Plaintiff further seeks the relief set out in paragraph 1(b) of this Statement of Claim.
80. The Plaintiff further pleads any and all documents mentioned in this Statement of Claim as documents referred to in the pleadings herein.
81. The Plaintiff proposes that this action be tried in Toronto.

Dated at Toronto this 26th day of October, 2022.



ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION
Rocco Galati, B.A., LL.B., LL.M.
1062 College Street, Lower Level
Toronto, Ontario, M6H 1A9
TEL: (416) 530-9684
FAX: (416) 530-8129
Email: rocco@idirect.com

Lawyer for the Plaintiff, on his own behalf

Court File No.:

Rocco Galati

Jill Cross et al.

-and-

Plaintiff

Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

STATEMENT OF CLAIM

Name: ROCCO GALATI LAW FIRM
PROFESSIONAL CORPORATION

Rocco Galati, B.A., LL.B., LL.M.

Address: 1062 College Street
Lower Level
Toronto ON M6H 1A9

Telephone No.: 416-530-9684

Fax No.: 416-530-8129

Lawyer for the Plaintiff,
on his own behalf