

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:)
)
Tracy Clancy, Brent Schreckengost, Monica) Maanit Zemel, for the Plaintiffs
Planta, Fahrin Jaffer, Jamal Raza, Jacques)
Conand Mosfiqur (MO) Rahman, Mira)
McDaniel, Talie Dang-Lu, Nicole Ceranna,)
Philip Cooksey, Marianna Gurovich, Daniel)
Christopher Koloski, Alvie Bert Kraatz III,) Tanvir Farid, Self-Represented Defendant
Michael Montgomery, Nicole Palmer, Mary)
Celeste (Mc) Didone, David Lynn, Surya)
Panditi, Laura Leigh Schneider, Mari)
Sullivan, Meera Ganesh, Michael Remza,)
Javed Khan, Marjory Remy, Cassandra)
Long, Kirsten Hill, Ruba Borno, Paula Cao,)
Bobby Nanda, Ruchi Echevarria, Michael)
Ginn, Felicia Glace, Robyn Matos/Holland,)
Angela Barnes Coolidge, Colin Kincaid,)
Maciej Kranz, Marc Aldrich, Karthik)
Subramanian, Heather Vickers, Stacie)
Torello Wilk, Mary Catherine Hudson, Chad)
Alan Trout, Kathleen Noonan, Shauna Daly,)
Kevan Blanco, Miriam Drummond,)
Cheyenne Deverna, Christine Feng, Dan)
Grossman, Aengus Linehan, Hilton)
Romanski, James Brian Doroan)
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Plaintiffs)
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– and –)
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TANVIR FARID a.k.a. TANVIR ISLAM)
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Defendant)
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) **HEARD:** November 18, 2022

JUSTICE A.P. RAMSAY:

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I. Overview

[1] The underlying action involves an action by 53 plaintiffs for defamation. In my decision dated March 4, 2022, I determined on a summary judgment motion that the defendant, Tanvir Farid a.k.a. Tanvir Islam (“the defendant”), was liable for online defamation involving the 53 plaintiffs. I directed a trial of the assessment of damages. The defendant was represented by counsel at the summary judgment motion but was self-represented at the assessment of damages hearing.

[2] Paragraph 3 of in my decision on liability, indexed as *Clancy v. Farid*, 2022 ONSC 947 (“the liability decision”), provides a synopsis of the case, as follows:

Fifty-three plaintiffs commenced this action against the defendant Tanvir Farid (“Mr. Farid”) for online defamation. Unified, they claim that Mr. Farid is an internet troll who has waged a campaign of cyber harassment, cyber stalking, and cyber defamation, ultimately resulting in tens of thousands of postings about them on the internet depicting them as sexual predators, fraudsters, and criminals among other things. The plaintiffs have been the subject of a targeted campaign with postings on websites for some ending up on websites devoted to posting salacious content.

[3] The sole issues to be determined are the assessment of damages and a determination of whether the remedies sought by the plaintiffs in the statement of claim and Notice of Motion for permanent and mandatory injunctive relief should be granted in the circumstances.

II. Nature of the Motion

[4] The plaintiffs, collectively, seek general damages in the amount of \$5,000,000.00, \$100,000.00 in aggravated damages, and \$500,000.00 in exemplary or punitive damages. The plaintiffs also seek permanent injunctive relief, requiring the defendant “to take active steps” to remove the defamatory content from the Internet and from search engine results; and, as well, seek an order enjoining the defendant from publishing any words, statements and expressions that are defamatory of the plaintiffs.

III. Background

[5] The facts are set out in my liability decision. I granted summary judgment on the issues of liability. I noted that:

[122] Mr. Farid, who focused on denying that he was the author of impugned postings, has not seriously challenged the amounts claimed. Additionally, I am not satisfied with the method proposed by counsel for the plaintiffs in assessing damages for each of the plaintiffs, which, in the end, would amount to merely applying a “conventional” amount for each category of damages for each plaintiff.

[6] I directed that the issue of damages was to be determined afterwards.

IV. Procedural History

[7] This matter has had a lengthy procedural history.

[8] This action was commenced on November 29, 2017, by fifty plaintiffs for damages for defamation, injunctive and mandatory relief requiring the defendant to remove the defamatory content posted on the internet and enjoining the defendant from making any further postings.

[9] On December 4, 2017, Archibald J. granted a joint an ex-parte Anton Piller which allowed access to and a search of the defendant's residence as well as an interlocutory injunction enjoining the defendant from placing further defamatory postings on the Internet. There were subsequent amendments, on consent, of the injunctive order.

[10] On January 5, 2018, the defendant delivered a statement of defence denying that he was the author of the posts and pleading that the action by the various plaintiffs were historical in nature and suggesting that they claims were barred by the limitation period (though the defence did not expressly plead the *Limitations Act*, 2002. S.O. 2002, chapter 24. Schedule B.) The defendant also commenced a counterclaim against the plaintiffs' lawyer, Maanit Zemel, as well as the investigating firm, Hexigent Consulting Inc. (, and investigators Ryan Duquette and Jason Green, who executed the Anton Piller order.

[11] On March 18, 2018, Archibald J. granted a permanent mandatory order, enabling the plaintiffs, at their discretion, to take such reasonable steps to remove the content from the internet. In doing so, he commented that the defamatory content published on the websites constituted false, salacious, outrageous and malevolent defamation of the plaintiffs. The order did not require the defendant to assist in removing the content.

[12] On December 21, 2018, Pattillo J. extended the injunctive order of Archibald J. Pattillo J. found that the Anton Pillar Order was properly executed. He dismissed the counterclaim against Ms. Zemel, Hexigent, and the two investigators, without leave to amend. Justice Pattillo declined to grant the other relief sought by the plaintiffs finding some of the relief vague and others premature given the stage of the litigation and the attendant consequences. At para. 32 of his decision, reported at *Clancy v. Farid*, 2018 ONSC 7482, Pattillo J. stated:

I am not prepared to either amend the APO/Injunction Order or the March 5, 2018 Injunction Order to provide that Farid assist the plaintiffs in removing the defamatory material or issue a mandatory order that requires Farid to remove such material. In my view, a term that Farid "assist" the plaintiffs is too vague and unenforceable. It must also be remembered that the action is still at the interlocutory stage. Given Farid's defence to the action, an order to require him to remove the offending posts from the Internet requires that he admit that he is the author. Such an order, in my view, is only appropriate as a final order following a trial of the issue. Granting the requested orders at this stage will only give rise to collateral proceedings concerning enforcement which will sidetrack a determination of the ultimate issue of whether Farid was the author.

The amount sought by the plaintiffs was the same for each of them, and I enquired, of counsel for the plaintiffs whether there was such a thing as a “conventional” amount for damages in defamation actions.

V. The Issues on the Motion

[13] The following issues are raised on this motion:

- i. Can the court assess damages on a motion for summary judgment in defamation case?
- ii. Can the court consider the defendant’s impecuniosity and access to justice in assessing damages?
- iii. Is this an appropriate case for awards of nominal damages?
- iv. What is the appropriate quantum of general damages for the plaintiffs?
- v. Are the plaintiffs entitled to aggravated damages?
- vi. Are the plaintiffs entitled to punitive damages?
- vii. Are the plaintiffs entitled to a permanent and/or mandatory injunctive order?

VI. Preliminary Issues

- i. *Representation and Service of Factum on Remedies*

[14] Two preliminary issues must be addressed. First, at the assessment hearing, the defendant raised issues of access to justice. The defendant has been represented by at least two lawyers. The original summary motion date was adjourned to afford the defendant an opportunity to retain new counsel. He was represented by counsel at the summary judgment motion. As he himself acknowledged at the assessment hearing, his lawyer did make some submissions on damages. The assessment of damages hearing was adjourned once due to a court conflict, but several times to allow the defendant to obtain support from Pro Bono Legal, which he was successful in doing. To the extent that there were other aspects of access to justice raised by the defendant in relation to determining the quantum of damages, they are dealt with below.

[15] Second, at the assessment of damages hearing, the defendant also raised the issue of short service of the plaintiffs’ factum on remedies. I am satisfied, however, based on the affidavits of service filed, that the defendant was served twice with the plaintiffs’ factum on remedies, namely in May and October of 2022 at the same email address. The defendant acknowledged receiving the last-mentioned email.

- ii. Can the court assess damages on a motion for summary judgment in a claim for defamation?

[16] Damages are presumed once liability is established in a defamation action. There is precedent for the court awarding damages on a summary judgment motion in a defamation case. In *Soliman v. Bordman*, 2021 ONSC 7023, at para. 214, Perell J. granted summary judgment and awarded damages of \$500,000. In, *Paramount v. Kevin J. Johnston*, 2019 ONSC 2910, at paras. 1-3, Ferguson J. granted summary judgment and awarded damages of \$2.5 million.

- iii. *Can the court consider the defendant's impecuniosity and access to justice in assessing damages?*

[17] The defendant relies on the decision of Perell J. in *Montrose Hammond & Co. et al. v. CIBC World Markets Inc.*, 2012 ONSC 4869 (CanLII), and *Walker v. Ritchie*, 2006 SCC 45 (CanLII), [2006] 2 SCR 428, as authority for his position that the court may take into consideration the defendant's impecuniosity in balancing access to justice rights. I agree that these cases are distinguishable. The former deals with security for costs, whereby the court is required to consider the impecuniosity of the party bringing the action, as one of the factors in determining whether to award security for costs, this case is distinguishable; and the latter deals whether a trial judge may award a "risk premium" in awarding costs.

[18] The real question is whether the court may consider the defendant's alleged impecuniosity in determining the quantum of damages. While there is no evidence before me of the defendant's impecuniosity, the defendant argued that is self-evident by the fact that he is a self-represented litigant, and he is unable to retain experts or complete discoveries. He argued, without evidence, that he was on disability support and urged the court to consider the investigations carried out by the plaintiffs revealing no assets of value and his living arrangement, as well as his student loans of approximately \$70,000.00.

[19] In general, a party's ability to pay should not affect the damages assessment. There are, of course, exceptions to this general rule. The Court of Appeal noted in *UBS Securities Canada, Inc. v. Sands Brothers Canada, Ltd.*, 2009 ONCA 328 (CanLII) at para. 103., that "(w)hether a defendant is in a position to pay damages and, thus, whether the plaintiff is likely to recover them, is relevant to the issue of the adequacy of damages". Dickson J. noted in *Thornton v. School District No. 57 (Prince George) et al.*, [1978] 2 S.C.R. 267, at p. 277, in commenting on whether the defendant's economic means should be given any weight in imposing an upper limit on the size of the award in the context of a personal injury action, explained that the correct principle is a proper compensation for the victim. He observed as follows:

[It] is an error in law to regard the ability of the defendant to pay as a relevant consideration in the assessment of the pecuniary damages. The correct principle is proper compensation for the injuries suffered by the victim. The exact amount in any particular case must be determined from the evidence presented by the parties at trial. Fairness to the defendant is

achieved not by a reduction for ability to pay, or by an arbitrary slashing of the award, but by ensuring that the plaintiff's claims are legitimate and justifiable.

[20] In *Andrews v. Grand & Toy Alberta Ltd.*, [1978] 2 S.C.R. 229, Dickson J. writing for the Court noted, noted at page, 243 that an award must be moderate and fair to both parties. He noted that: "The ability of the defendant to pay has never been regarded as a relevant consideration in the assessment of damages at common law. The focus should be on the injuries of the innocent party. Fairness to the other party is achieved by assuring that the claims against him are legitimate and justifiable."

[21] The financial means of the defendant is relevant, however, in the assessment of any award of non-compensatory, such as punitive damages, which is claimed here. The goal of punitive damages are retribution, denunciation, and deterrence. An award that is too large may not achieve the goal if the defendant is poor: Halsbury's Laws of Canada- Damages (2021 Reissue). In *Whiten v. Pilot Insurance Co.*, [2002] 1 S.C.R. 595), at para. 119, the Supreme Court noted that the "financial power" is relevant in the following circumstances

"...if the defendant chooses to argue financial hardship, or (2) it is directly relevant to the defendant's misconduct..., or (3) other circumstances where it may rationally be concluded that a lesser award against a moneyed defendant would fail to achieve deterrence."

[22] In this case, the defendant has argued financial hardship, and to the extent that it is relevant to the determination of whether the plaintiffs, or any of them is entitled to punitive damages, it is discussed below. The court cannot, however, consider the defendant's financial means in considering what is a fair and reasonable damage award from the perspective of the defendant and each plaintiff.

iv. Is this an appropriate case for awards of nominal damages?

[23] The goal of damages in a defamation case are to compensate for "insult offered, and pain given", vindication of reputation, injury to pride and self-confidence, social damage and possible economic damage: see, *Brown v. Cole* (1998), 1998 CanLII 6471 (BC CA), 61 B.C.L.R. (3d) 1 (C.A.) at para. 107, citing *Rookes v. Barnard*, [1964] 1 All E.R. 367 at 413).

[24] Nominal damages may be awarded where defamation is found, but it did not cause harm to the plaintiffs: *Dawydiuk v. Insurance Corporation of British Columbia*, 2010 BCCA 35; *Canadian Broadcasting Corporation v. Whatcott*, 2016 SKCA 17; *Skafco Limited v. Abdalla*, 2020 ONSC 136. In my view, given the occupations of the plaintiffs, who are in the business, all except for one of attracting candidates for potential employment, a Google search of their name would potentially impact their ability to do so. As for the lone lawyer, a Google search of her name may have a similar effect on potential clients and on her reputation amongst her peers.

[25] In addition, none of the cases relied upon by the defendant are similar to the case before me. The defendant relies on the decision of *Acumen Law Corporation v Nguyen*, 2018 BCSC 961

and *Spence v. Hamlyn*, 2010 NLCA 24 in support of his position that the plaintiffs should be awarded nominal damages. He relies upon the following passage of Murray J., in *Acumen* decision:

In this time when virtually everyone has instantaneous access to the internet, many use the internet to express their feelings without pause or reflection. Businesspeople with Google Plus profiles or the like invite comments from customers. Surely no one can expect to receive all favourable reports. When choosing a lawyer or other professional or service provider, prospective customers reading such reviews would be naive to think that anyone or any business would receive all positive reports. As the adage goes, you can't please everyone all the time.

[26] I agree with the plaintiffs that *Acumen* is distinguishable. *Acumen* was a motion for default judgment. Murray J. was asked to determine whether comments made by a disgruntled former client on a lawyer's Google Plus Profile were defamatory, and if so, the appropriate measure of damages. The impugned statement: "I spent nearly \$2000 for kyla lee to lose a case for me that they seemed they didnt (sic) put any effort into. Anywhere else would be moore (sic) helpful. worstest (sic) lawyer. would not recommend". Justice Murray was not satisfied that any reasonable, right-thinking person, thoughtful and informed, would accept the post as being accurate nor was he satisfied that it would lower or even impact plaintiffs' reputation. He doubted whether the comments were defamatory and noted: "Considering the law and the evidence before me, I am of the view that if this post is defamatory, it is at the lowest end of the scale." To signal his disapproval of action being commenced, the judge awarded the plaintiffs \$1.00 in damages. In my view, given the comments made by Murray J. which suggest that the plaintiffs' reputation suffered no real damage, the award is more akin to contemptuous damages: see, J. Cassels, *Remedies: The Law of Damages* (Toronto: Irwin Law, 2000) at pp. 281 and 285. Contrary to *Acumen*, a number of judges have found the defendant's postings to be defamatory, including me.

[27] *Spence* is also distinguishable. Counsel for the plaintiffs argue that *Spence* is distinguishable on its facts and involves a non-Internet case. I agree. *Spence* involved a claim and counterclaim for defamation based on allegations quasi-criminal behaviour. The appellant *Spence* was a town councilor and the respondent, an employee. The trial judge awarded *Spence* \$2,000 for general damages and \$1,000 in general damages to the respondent. *Spence* appealed on the basis that the award was inordinately low as to constitute an award of nominal damages. The respondent had written a letter alleging improper operation and told another councilor that *Spence* used the snowplow for his driveway. The Nova Scotia Court of Appeal declined to interfere and underlined the finding of fact found by the Court of Appeal, that is, that *Spence*'s reputation with his employer was intact, and he found no evidence that the existence or contents of the letter had become known within the community but rather were confined to the offices of the district manager and three senior officers at the employer's head office.

[28] While damages for defamation may be difficult to assess, on the evidence before me, I am not satisfied that any of the plaintiffs cannot be awarded appropriately, to the extent that money can provide some solace, vindication, and compensation: see Brown, *The Law of Defamation*, vol. 3 at 25-7 - 25-11.

[29] Based on the authorities, the defendant's financial means is not relevant to assessing the plaintiffs' damages.

VII. Assessment of Damages

v. What is the appropriate quantum of general damages for the plaintiffs?

[30] The plaintiffs seek \$5 million dollars in general damages jointly in the statement of claim. In oral hearings, counsel for the plaintiffs submit that each plaintiff is seeking a range of \$50,000.00 to \$94,339.62 in general damages. Each plaintiff seeks damages in the range of \$50,000.00 to \$94,339.62.

[31] Each plaintiffs' position is expanded, where appropriate, below. In general, the plaintiffs submit that in assessing the quantum of damages, in addition to defamation, the court must take into consideration that this is an internet defamation case. That is to say, the plaintiffs urge to court to consider not only the traditional factors established by the Supreme court in *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC), [1995] 2 S.C.R. 1130, at para. 185, in assessing damages in defamation cases, this court must also consideration articulated by the Ontario Court of Appeal which observed that the mode and extent of publication is particularly relevant in assessing the quantum of damages in these cases in the context of the internet. The plaintiffs rely on the Ontario Court of Appeal decisions of *Rutman v. Rabinowitz*, 2018 ONCA 80, at paras. 67 and 68 and *Barrick Gold Corp. v. Lopehandia* (2004), 2004 CanLII 12938 (ON CA), 71 O.R. (3d) 416, at para. 31.

[32] The defendant submits that the plaintiffs were being overdramatic and hyperbolic. He did not share their view that the defamatory posts would continue to cause irreparable harm. While he agreed with the plaintiffs that the defendant's impecuniosity would not preclude the court awarding the plaintiffs damages, he argued that the court should consider a party's impecuniosity and how to balance that with access to justice. The defendant submits that an award of damages must be fair, just, reasonable, and commensurate with a party's ability to pay. He suggested the court should award nominal damages. He submits that while the court has discretion to award from zero dollars to whatever the amount it deems appropriate, the award should not be an "outrageous amount".

[33] Generally, compensatory damages are awarded to compensate the plaintiff for all loss arising from the defendant's tort or breach of contract. In *Andrews v. Grand & Toy Alberta Ltd.*, [1978] S.C.J. No. 6, [1978] 2 S.C.R. 229 (S.C.C.), at pp. 262, the Supreme Court observed that "(m)oney is awarded because it will serve a useful function in making up for what has been lost in the only way possible, accepting that what has been lost is incapable of being replaced in any direct way." The courts have strived to distinguish the basis for compensatory damages in personal injury cases and defamation cases. In *John Fairfax Publications Pty Ltd v O'Shane (No. 2)*, [2005] NSWCA 291, the Giles JA, speaking for the court, noted that there is "no market value for reputation".

[34] The tort of defamation is one of strict liability. An injured plaintiff is not required to show that the defendant intended to do harm or was careless: *Grant v Torstar Corp*, 2009 SCC 61, [2009] 3 SCR 640 at para. 28. General damages are presumed from the publication of the false statement. That is to say, the law presumes that some damage will flow in the ordinary course from the invasion of the plaintiff's rights: see *Ratcliffe v. Evans*, [1892] 2 Q.B. 524 at 528 (C.A.) and *Hill v. Church of Scientology of Toronto* (1995), 126 D.L.R. (4th) 129 at 176 (S.C.C.). The plaintiffs need not prove actual injury or loss: see, *Hill v. Church of Scientology of Toronto*, 1995 CanLII 59 (SCC), [1995] 2 S.C.R. 1130; at para. 167; Raymond E. Brown, *Brown on Defamation*, loose-leaf, 2d ed. (Toronto: Thomson Reuters, 2017), at 25.1.

[35] Damages are awarded at large, to compensate and the plaintiff for reputational loss, injury to the plaintiff's feelings, and to vindicate the plaintiff so that the plaintiff's reputation may be re-established: *Dingle v Associated Newspapers Ltd*, [1964] AC 371 at 398 (HL); *Walker v CFTO Ltd* (1987), 1987 CanLII 126 (Ont. C.A.), 59 OR (2d) 104 at 111 (CA). In *Elkow v Sana*, 2020 ABCA 350, the Alberta Court of Appeal noted at para. 20, that general damages may also address related injuries such as the stress, emotional injury, hurt, and humiliation which results. The jurisprudence establishes that even where there has been no reputational harm, the plaintiff is entitled to damages for emotional distress or annoyance: *Morgan v Odhams Press Ltd*, [1971] 2 All ER 1156 at 1163 (HL).

[36] In assessing general damages in a defamation case, the court must consider the factors articulated by the Supreme Court in *Hill*, and reframed by the case law, which include: the conduct of the plaintiff, plaintiff's position and standing, the nature and seriousness of the defamatory statements, the mode and extent of publication, the absence or refusal of any retraction or apology, the conduct and motive of the defendant from publication to judgment, and any aggravating or mitigating circumstances: *Hill*; *Rutman v. Rabinowitz*, 2018 ONCA 80, at para. 68; *Paramount Foods v. Johnston*, 2019 ONSC 2910, at paras. 66 & 67; *Barrick Gold Corp. v Lopehandia*, 2004 CarswellOnt 2258 (C.A.), at para 29.

a) Conduct of the Plaintiffs

[37] Except one of the plaintiffs, Mosqifur (Mo) Rahman, all the plaintiffs were strangers to the defendant. Mr. Rahman had been the defendant's boss for a brief period. There is no evidence before the court of the conduct of any of the plaintiffs which may be a relevant factor in reducing damages.

b) Plaintiff's Position and Standing

[38] The plaintiffs are all professionals. Except for the lawyer, Fahrin Jaffer, all of the plaintiffs are former or current executives, owners, or recruiters for IT companies such as Amazon, Dell, Cisco, Hewlett-Packard Enterprise ("HPE"), Oracle and VMware. The plaintiffs submit that as a result, this puts them in the highest position of standing in terms of their reputation in their community and their industry. Each plaintiff has given evidence on the impact of the defamatory

statements on them personally, in some cases, their mental health, and their reputation in the community and in the job market.

[39] Each plaintiff has described the incalculable damage to their reputation, and, for some, the impact on their family, social life, and wellbeing, as well, as, for others, economic damage, or potential impact on future job prospect. Some suspect the defamatory postings may be the cause of their difficult securing employment. For many, the defamatory comments have resulted in mental anguish, embarrassment, and other mental health issues.

[40] The plaintiffs alleged to have committed the vilest acts, and the defamatory postings run the gamut from allegation of sex trafficking, rape, pedophilia to all harassment in the workplace, with all manner of criminal and illegal activities in between. To make matters worse, the defamatory comments are accompanied by photos of the plaintiffs. The Supreme Court makes it clear that the good reputation of an individual represents and reflects the innate dignity of the individual: *Hill*, at para. 120. That Court stated that the publication of defamatory comments constitutes an invasion of the individual's personal privacy and is an affront to that person's dignity: *Hill*, at para. 121. And, as the Ontario Court of Appeal has observed, “(t)he injurious effects of defamatory statements regarding a professional are particularly acute”, *Ruttman*, at para. 66. In *Hill*, at para. 118, the Supreme Court made the following comments about a lawyer’s reputation:

The reputation of a lawyer is of paramount importance to clients, to other members of the profession and to the judiciary. A lawyer's practice is founded and maintained upon the basis of a good reputation for professional integrity and trustworthiness. It is the cornerstone of a lawyer's professional life. Even if endowed with outstanding talent and indefatigable diligence, a lawyer cannot survive without a good reputation.

[41] The Court of Appeal noted that the importance of a reputation for integrity and trustworthiness applies equally to other professions and callings: *Ruttman*, at para. 67.

c) The nature and seriousness of the defamatory statements

[42] The publication of thousands of postings about the plaintiffs on various webpages contained the most pernicious and injurious defamatory content, labelling the plaintiffs as pedophiles, child molesters, sex traffickers, rapists, prostitutes, xenophobic, homophobic, and criminals. Some of the plaintiffs were identified as engaging in the sex trade, sexual harassment in the workplace, fraud, or other criminal activity.

[43] Justice Archibald, who granted the Anton Piller and interim injunction stated:

All of the internet comments are outrageous, defamatory and must be removed. They accuse each of the plaintiffs of being prostitutes, or of sex trafficking or of having illicit escorts. All of them are salacious, outrageous, malevolent defamation and constitute horrible internet bullying.

[44] The nature of the defamatory statements and corresponding defamatory meaning is extremely serious, alleging, as they do criminal activity, predatory sexual activity, pedophilia (for on the part of the men), prostitution (on the part of the women). I cannot agree more with Archibald's characterization that the statements are "salacious", "outrageous" and "malevolent". The defamatory statements are potentially career ending, but, without a doubt, ruinous to each plaintiff's reputation. Without a doubt, the nature of the defamatory comments are grave and serious especially in view of the criminal element and potential for legal jeopardy if some of the allegations were true.

d) The Mode and Extent of Publication

[45] In *Google Inc v Equustek Solutions Inc*, 2017 SCC 34, the Supreme Court noted, at para. 41, "The Internet has no borders — its natural habitat is global." All fifty-three plaintiffs had multiple defamatory postings on the Internet. As I indicated in my liability decision, the Court of Appeal has therefore offered some guidance in highlighting that the mode and extent of publication is a particularly significant consideration in the assessment of damages in an Internet defamation cases. At paragraph 74, I stated as follows:

The Ontario Court of Appeal has commented on the "the ubiquity, universality and utility of that medium", that is the internet and noted that: "internet defamation is distinguished from its less pervasive cousins, in terms of its potential to damage the reputation of individuals and corporations, by [...] its interactive nature, its potential for being taken at face value, and its absolute and immediate worldwide ubiquity and accessibility. The mode and extent of publication is therefore a particularly significant consideration in assessing damages in Internet defamation cases.": see *Barrick Gold Corp. v. Lopehandia* (2004), 2004 CanLII 12938 (ON CA), 71 O.R. (3d) 416 (C.A.), at para. 30; *Rutman v. Rabinowitz*, 2018 ONCA 80, 420 D.L.R. (4th) 310, at para. 69.

[46] During his submissions, the defendant acknowledged that it would be difficult, if not impossible, to remove the content from the internet and submits that the posts are multiplied by bots. He pointed to a post for the plaintiff, Ms. Clancy, which he submits has been replicated "word for word for word" for six to seven years. He argued he could not accept responsibility for replication caused by bots. Generally, "a person is responsible only for his or her own defamatory publications, and not for their repetition by others" (Brown, at pp. 7-51 to 7-61; see also *Crookes v. Newton*, 2011 SCC 47, [2011] 3 S.C.R. 269). There is an exception, whereby the person who originally published the statement may be liable for the republication where it was authorized by the author or where the "republication is the natural and probable result of the original publication": *Breeden v. Black*, 2012 SCC 19 (CanLII), [2012] 1 S.C.R. 666, at para. 20, referencing Raymond E. Brown, *The Law of Defamation in Canada* (1987), vol. 1, at pp. 253-54). In my view, in bots are a feature of the Internet, the mode of publication chosen by the defendant to disseminate the egregious and file defamatory postings about the plaintiffs. It was therefore reasonably foreseeable that those postings would be replicated and multiplied on the Internet, such is the nature of the Internet.

[47] In this case, the defendant chose a medium which was borderless, had an audience that was global, with the click of a mouse, and an impact that is continually amplified, if his submissions are true, by the existence of bots. That is to say, the defamatory statements perhaps will always reside on the Internet.

[48] In my view, the publication of the defamatory postings on the Internet is a significant factor justifying a larger award.

e) The Absence or Refusal of Any Retraction or Apology

[49] The plaintiffs argue that not only has the defendant refused to apologize or retracted any of the defamatory statements, continues, to date, to deny that he is responsible for the postings, even in the face of this court determination of his liability. The plaintiffs argue that the defendant's failure to do so entitles the court to decline to reduce the plaintiffs' damages.

[50] The fruits of the Anton Piller Order led the plaintiffs to the defendant's doorsteps. Despite this, the defendant has not retracted any of the defamatory statements and has not apologized to the plaintiffs. He maintains, even at the assessment hearing, that he is not the author and of course, resisted the plaintiffs' plea for his assistance in helping to take down the defamatory content.

[51] I find that the defendants' refusal to retract or apologize for the defamatory statements is an aggravating factor that supports a large damage award.

f) Conduct and motive of the defendant from publication to judgment

[52] Counsel for the plaintiffs argue that this is a significant aggravating factor. The plaintiffs argue that the defendant's conduct and motives from publication through judgment are particularly egregious. The plaintiffs argue that the defendant is a cyber bully who has cyber harassed the plaintiffs for years, with no underlying excuse for his action. The plaintiffs argue that the motive for the defendant's action is revenge. The plaintiffs, save for one, are all strangers to the defendant. The sole thing they have in common, save for the lawyer, is that they were involved in the recruitment process for jobs that the defendant applied. All, including the lawyer, share one thing in common – they had rejected the defendant – 52 of the plaintiffs during the recruitment process, and one, the lawyer, rejected his online romantic advances. The defendant told the lawyer, she would “regret” this decision. He then published the defamatory content online.

[53] The defendant's motive is obvious. Having been rejected by the plaintiffs, he engaged in a sustained, malicious, calculated and continuous campaign of cyber defamation, cyber-bullying and cyber-harassment.

[54] After the plaintiffs commenced this action, the defendant counter claimed against the plaintiffs, their lawyer and investigators. Justice Pattillo struck the counterclaim without leave to amend. In striking the counterclaim, Justice Pattillo noted the allegations were “scandalous, embarrassing, frivolous and irrelevant bald allegations not capable of proof. Despite Pattillo J.'s

decision, at the initial return of the summary judgment motion, the defendant sought to resurrect the counterclaim.

[55] The plaintiffs argue that there is a pattern of conduct by the defendant since the start of the litigation which shows his maliciousness and his lack of remorse. During the litigation, the defendant has filed materials which include derogatory and offensive comments about the plaintiffs. He has called them “disgruntled litigants acting in a vexatious manner ... because they were either unable to and/or have failed miserably to have disparaging content about them posted online purged...”, “unsavory characters who have deliberately mislead the Court by presenting falsehoods in their sworn affidavits” [sic]. He referred to the plaintiffs, their lawyer, and the investigators who executed the Anton Piller Order as subjecting him to “dehumanizing and humiliating acts that included watching [him] urinate, defecate, changing of attire”, and making him subject to a “discriminatory line of questioning” by the plaintiffs’ agents”. Postings of the plaintiffs’ own lawyer were uncovered on some of the same websites.

[56] Indeed, during his submissions, the defendant submitted that the sites were revenge sites and claimed that anyone could post anything on the sites. The defendant attempted to distinguish cases where there was a criminal element and argued that there was the “animus” factor and criminal sanctions against the parties who were charged and arrested. He submitted that “we have conclusive evidence to suggest that many of the plaintiffs including Ms. Jaffer have gone to the police”. He argued that if the plaintiffs are asserting that their life is in danger or that they are fearful for their life, there would be “clear grounds for the police to investigate criminal harassment, mischief, threatening...”. He submitted that the police in numerous jurisdictions have investigated and have decided not to lay charges. The defendant has not provided the court with any authority to indicate that the police that the police has not laid charges is a mitigating factor in determining the quantum of damages.

[57] At times, during the submissions, it appeared that the defendant was making light of the very serious situation.

VIII. Quantum of Damages

vi. General Damages

[58] In *Weaver v. Corcoran*, 2017 BCCA 160, the British Columbia Court of Appeal explained the function of the law of defamation at para. 62:

The function of defamation law is to protect and vindicate reputation from harm that is unjustified. A good reputation fosters one’s sense of self-worth and, as an aspect of personality, is related to the innate worthiness and dignity of the individual, an underlying value of the Canadian Charter of Rights and Freedoms. Once tarnished, good repute is hard to regain, with sometimes devastating consequences, particularly in a professional context. However, its protection must be balanced and reconciled with the Charter guarantee of freedom of expression, a recognised pillar of modern democracy: [Hill v.

Church of Scientology [of Toronto, 1995 CanLII 59 (SCC), [1995] 2 S.C.R. 1130] at paras. 100–121; WIC Radio [Ltd. v. Simpson, 2008 SCC 40] at paras. 2, 15; Bou Malhab [v. Diffusion Métromédia CMR inc., 2011 SCC 9] at paras. 16–18; Botiuk v. Toronto Free Press Publications Ltd., 1995 CanLII 60 (SCC), [1995] 3 S.C.R. 3 at paras. 91–92.

[59] On the evidence before me, all 53 plaintiffs experienced reputational harm. All, except one are executive recruiters, one being a lawyer. All are professionals. On the evidence, all experienced reputational harm, serious emotional distress, no apology and no public vindication, and some experienced financial consequences.

[60] Each plaintiff seeks damages in the range of \$50,000.00 to \$94,339.62.

[61] Courts have repeatedly indicated that that defamation cases are fact specific. In *Rutman v Rabinowitz*, 2018 ONCA 80 at para 100, the Ontario Court of Appeal observed the following: “The assessment of damages in each case must account for a myriad of idiosyncratic factors particular to the parties, the misconduct in question and the conduct of the litigation.” It is for this very reason that the Supreme Court observed in *Hill*, at para. 83: “It follows that there is little to be gained from a detailed comparison of libel awards”.

[62] In *Lindal v. Lindal*, 1981 CanLII 35 (SCC), [1981] 2 SCR 629, at pp. 637, the Court noted:

Thus the amount of an award for non-pecuniary damage should not depend alone upon the seriousness of the injury but upon its ability to ameliorate the condition of the victim considering his or her particular situation. It therefore will not follow that in considering what part of the maximum should be awarded the gravity of the injury alone will be determinative. An appreciation of the individual’s loss is the key and the “need for solace will not necessarily correlate with the seriousness of the injury” (Cooper-Stephenson and Saunders, *Personal Injury Damages in Canada* (1981), at p. 373). In dealing with an award of this nature it will be impossible to develop a “tariff”. An award will vary in each case “to meet the specific circumstances of the individual case” (Thornton at p. 284 of S.C.R.).

[63] Notwithstanding this observation, the plaintiffs have urged the court to consider the damage awards in the cases below.

[64] In *Rutman*, the trial judge awarded the plaintiff general damages of \$200,000 jointly and severally against both defendants, \$200,000 in aggravated damages and \$250,000 punitive damages against one defendant and \$50,000 punitive damages against another. The Ontario Court of Appeal upheld an award of \$400,000.00 for general and aggravated damages arising out of a campaign of online defamation and harassment.

[65] In *Paramount Foods*, the court awarded the plaintiff the total of \$2.5 million arising out of a long-term campaign of cyber-harassment and online defamation. In support of this quantum, Ferguson J. stated, in pertinent part:

“The Johnston defendants’ statements are the most harmful types of statement. Accusing any person, and in particular a Muslim individual, of terrorism is about as serious and damaging an allegation as can be made in these times. Similarly, allegations of criminal conduct, and sexual misconduct and “rape” in particular, are “so obviously and materially harmful to reputational interests”. Given the severity of these extremely serious and damaging allegations, malice and significant damages are presumed.” [emphasis added]

[66] In *Rook v. Halcrow*, 2019 BCSC 2253, a B.C. court awarded general damages in the amount of \$175,000.00 and \$25,000 in aggravated damages for defamatory postings on some of the same sites and with similar wording to the Defamatory Postings in the herein action (e.g., TheDirty.com; STDCarriersatabase.com; etc.).

[67] In *Magno v Balita*, 2018 ONSC 3230, the court awarded \$300,000.00 to the plaintiff for online defamation because the defendants “carried out an all-out cyber-attack on [the plaintiff]. There was no apology or retraction. These articles were “published” over a 14-month period, at times on multiple platforms”.

[68] In *Pathak v. Shapira*, 2019 MBQB 73, a Manitoba Court awarded the plaintiff \$300,000.00 for what it considered a campaign of intimidation, harassment, and defamation on the Internet.

[69] In *Nassri v. Homsy*, 2017 ONSC 4554, the court awarded \$50,000.00 in general damages, \$20,000.00 in aggravated damages, and \$20,000.00 in punitive damages for “a campaign of threats and intimidation directed at the plaintiff. This campaign included publication on the internet of a statement that the plaintiff had stolen money”.

[70] The Ontario Court of Appeal upheld a summary judgment award of \$50,000.00 in general and aggravated damages in *Zoutman v Graham*, 2020 ONCA 767, for fake online reviews posted about the physician plaintiff by the defendant.

[71] The court awarded each plaintiff who were defamed by online postings on social media, \$50,000 in *Lavallee v. Isak*, 2021 ONSC 6661, this action involved two plaintiffs that were defamed online by postings on social media.

[72] In the recent decision of *Hudson v Myong*, 2020 BCSC 517, the British Columbia Court awarded a total of \$100,000 in damages, including because “the defendant exploited the advantages offered by instant electronic communications to spread misinformation to a wide audience and to maximize the impact of her defamatory statements during the Campaign. Her statements were egregious, extensive, and relentless”.

[73] I prefer the cases provided by the plaintiffs as opposed to those relied upon by the defendant, for the reasons statement above. I find the amount being sought for general damages by each of the plaintiff is in the range of possible award of damages. The defamatory statements are so egregious and outrageous that the amounts being award for each plaintiff makes slight distinctions, thereby increasing the range of damages, based on whether they are an executive,

which includes being the principal of a company, senior level recruiter, and the extent, to some degree of the publications.

All of the plaintiffs, who are recruiters, spoke of the impact of the defamatory content the Internet in attracting potential candidates. The plaintiffs, collectively, are concerned about the impact on the employability if they were to lose their job. Others, who are unemployed, believe the defamatory content on the internet may be playing a role in preventing them from securing new employment.

1. Aengus Linehan

[74] I have assessed Mr. Linehan's general damages in the amount of \$90,000.00. It is not enough and never will be enough to vindicate Mr. Linehan for the harm done to his reputation and the mental anguish that he suffered as a result of the defamatory postings. Mr. Linehan is a former Executive at HPE. He is married and is the father of three children. His children's friends would regularly come over to his home. There were over 20 postings made, beginning September 21, 2016. The defamatory postings accused him of vile and, because of their nature, criminal acts. Certain comments were directed at his ethical and moral conduct as a professional and a spouse. The defamatory postings included such statements that Mr. Linehan was a pedophile, racist, sexual predator, and adulterer, and that he is violent and/or dangerous, unethical and/or immoral, unprofessional, dishonest, and unfaithful to his spouse. The postings have caused him significant mental distress and anguish, and he calls them particularly harmful because they suggest that he has sex with underage girls.

2. Alvie Bert Kraatz III

[75] I have assessed Mr. Kraatz's general damages in the amount of \$90,000.00. Mr. Kraatz is a Principal Talent Advisor at Oracle. As a recruiter, Mr. Kraatz's ability to make a living is dependent upon his ability to attract top candidates. Potential candidates may "google" his name and discover the postings, which may impact their decision on whether to apply for positions. There were over 175 postings made, beginning April 6, 2016. Some of the defamatory statements described him as a pedophile, rapist, sexual deviant, sexual predator, online predator, bad recruiter, bigot, homophobe, xenophobe, and/or member of the Klu Klux Klan. Others describe him as being engaged in criminal acts, engaging in sex with underage persons, and a source of embarrassment to his employer.

3. Angela Barnes Coolidge

[76] General damages for Ms. Coolidge are assessed in the amount of \$50,000.00. Ms. Coolidge is a recruiter with Cisco. There are approximately 5 defamatory postings since March 11, 2016. Like most of the recruiters, Ms. Coolidge indicates that her ability to make a living is dependent upon her ability to attract top candidates, which may be impacted by a "google" search of her name. Some of the defamatory postings describe Ms. Coolidge as racist, xenophobic, and

homophobic. Her professionalism and ethics are impugned as she is described as incompetent, unprofessional and one who violates her employer's policies.

4. Bobby Nanda

[77] I have assessed general damages for Mr. Nanda in the amount of \$80,000. Unlike Ms. Coolidge, the defamatory postings about him includes allegations of criminal sexual activities involving children, being described as a registered sex offender, as well as, comparatively speaking, less grave allegations misconduct and unprofessionalism in the workplace.

[78] Mr. Nanda is also a recruiter at Cisco. Like Ms. Coolidge, his competence and ethics are also impugned. Some of the defamatory postings describe Mr. Nanda as a pedophile, sexual deviant, sexual predator, registered sex offender, online predator. Other defamatory statements claimed that Mr. Nanda committed sexual assault and preys on children and alleges that uses the Internet to sexually prey on victims. There were over 140 postings made, beginning October 13, 2015. According, to Mr. Nanda, the decision of potential candidates who Google his name may be impacted by the defamatory postings.

5. Brent Schreckengost

[79] Mr. Schreckengost is the North America Recruiting Manager at SAP. There were over 200 defamatory postings made from June 1, 2016, on the Internet. The statements allege criminal sexual activities, other amoral, racist, unethical and unprofessional conduct, among other things. Some of the most vile and outrageous defamatory statements include that he drugs underage boys to force them to perform sexual acts against their will, is a pedophile, engages in criminal acts, has committed sexual assault and/or sexual harassment, uses the Internet to sexually prey on victims, engaged in adultery, engaged in nonconsensual sex acts, engaged in sexual acts with minors, has taken advantage of innocent women and men, should be avoided, and should be feared.

[80] In the postings, Mr. Schreckengost believes the postings place his career at risk, fears he may be fired, and believes the postings may harm any future career endeavours he may wish to pursue. I have assessed Mr. Schreckengost's general damages in the amount of \$90,000.00.

6. Cassandra Long

[81] I have assessed Ms. Long's general damages in the amount of \$85,000.00. Ms. Long is a Project Specialist and former Recruiter at Cisco. Since March 22, 2016, there has been over 70 defamatory postings related Ms. Long. She is described as a criminal, or engaging in criminal acts, former prostitute and escort, sexual deviant, and former stripper. Like many of the plaintiffs, Ms. Long's character, professionalism and work ethics are also impugned. She is also alleged to be unethical, an embarrassment to her employer, incompetent and/or unprofessional, racist, xenophobic and homophobic, and unfaithful to her spouse. Other defamatory statements include that she carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner, commits adultery, should be avoided, and violates her employer's policies.

[82] There were over 70 postings made, beginning on March 22, 2016. She too speaks to the impact that the searches has on her ability to recruit top candidates who potentially “google” her name.

7. Chad Alan Trout

[83] I have assessed Mr. Trout’s general damages in the amount of \$80,000.00. There were over 110 postings made, beginning December 2015. In the postings, Mr. Trout is described as a pedophile and sexual predator. Mr. Trout is a Recruiter at HPE. Some of defamatory postings claim that he that he engages escort and/or prostitution services, has engaged in sexual acts with underage persons, has engaged in criminal acts and is racist, bigot, homophobe and/or xenophobe, source of ridicule and contempt, and an embarrassment to his employer. Others call him dishonest, fraudulent and/or a liar and claims he violates his employer’s policies.

[84] In addition to the impact on his ability to attract top candidates, the defamatory postings have impacting him as a father and coach to his son’s little-league baseball. Other parents have expressed their concerns about the defamatory content, and he believes he has likely lost coaching opportunities as a result.

8. Cheyenne Deverna

[85] Ms. Deverna is an HR Recruiter at VMware. There were over 5 postings made between May 2016 and June 2017. The defamatory content include allegations that she is a fraud and/or is dishonest, racist, bigot, homophobe and/or xenophobe. Others allege that she is incompetent and/or unprofessional, lazy, not fit to recruit for her employer, repugnant, should be avoided, and that she violates her employer’s policies. She is appalled that she was labelled racist, and is concerned that her niece and nephew, who are bi-racial, would discover these postings. She lives in constant worry that the Defendant will post more of these Defamatory postings and has reduced her social media presence as a result.

[86] I have assessed her general damages in the amount of \$55,000.00

9. Christine Feng

[87] Ms. Feng is a Corporate Development Executive at Amazon. She recruits people for Amazon. There were over 80 postings made, beginning January 6, 2017. Some of the postings allege that she is dishonest, incompetent, promiscuous, repugnant, subject to ridicule and contempt, unethical or immoral, unfaithful to her spouse, and unprofessional. She is alleged to have committed adultery, has HIV/AIDs, and has sexual relations with married men.

[88] I have Ms. Feng’s general damages in the amount of \$75,000.00

10. Colin Kincaid

[89] Mr. Kincaid is the Chief Technology Officer at Cisco. The defamatory statements indicate that he is abusive, cruel and/or mean, disliked, disrespectful, discourteous and/or difficult to work with, feared by his colleagues and/or subordinates, incompetent and/or inept, arrogant, lazy, racist, xenophobic and/or homophobic, repugnant, and unprofessional. Other defamatory statements include that he fosters a hostile work environment, is a failure as an executive, and has engaged in sexual misconduct and/or sexual harassment at work.

[90] There was 1 posting made, beginning August 6, 2015. I assess general damages for Mr. Kincaid in the amount of \$55,000.00

11. Dan Grossman

[91] Mr. Grossman is a Vice President at Amazon. There were over 160 postings made, beginning May 26, 2017. He recruits for jobs at Amazon. The photo accompanying, he defamatory postings include his wife. Certain of the defamatory content include statements that he is a fraud, pervert, philanderer, sexual predator, and an adulterer. Still others claim that he has engaged in sexual misconduct and/or sexual harassment at work, has HIV/AIDS, has bad moral character, and lacks intelligence. Certain postings attack his character and his work ethics, claiming that he is feared by his colleagues and/or subordinates, and fosters a hostile work environment.

[92] Potential candidates may “google” his name and discover the postings, which may impact their decision on whether to apply for positions for which he is recruiting. In addition, those who view the postings are likely to negatively judge his character. The postings have caused significant mental distress, anguish, and embarrassment for Mr. Grossman and his family. Funal and personal reputations.

[93] I assess general damages for Mr. Grossman in the amount of \$80,000.00

12. Daniel Christopher Koloski

[94] Mr. Koloski is a Senior Director at Oracle. There were over 140 postings made, beginning January 20, 2014. Some of the postings describe him as a pedophile and sexual predator. He is described as abusive, cruel and/or mean, arrogant, dishonest, fraudulent and/or a liar. Other defamatory statements include that he is a criminal, pedophile, online predator, sexual predator, sexual deviant, and that he commits adultery, engages escort and/or prostitution services, engages in criminal acts, has committed sexual assault and/or sexual harassment, engaged in criminal acts, engaged in sexual acts with underage persons, engaged in sexual misconduct, engaged in sexual misconduct and/or sexual harassment at work, and has STDs including HIV/AIDS,

[95] I assess general damages for Mr. Koloski in the amount of \$85,000.00

13. David Lynn

[96] I assess general damages for Mr. Lynn in the amount of \$85,000.00. He is a Principal Talent Advisor at Oracle. There were over 80 postings made, beginning January 1, 2014. The

Defendant posted defamatory statements about Mr. Lynn, including that he is a fraud, racist, bigot, homophobe and/or xenophobe, sexual deviant or predator, source of ridicule and contempt, and an embarrassment to his employer. Other defamatory statements include that he is liar and/or dishonest, aggressive, immoral and/or unethical, incompetent and/or unprofessional, lazy, not fit to recruit for his employer, repugnant, unfaithful to his spouse and that he violates his employer's policies and should be avoided.

14. Fahrin Jaffer

[97] I assess general damages for Mr. Jaffer in the amount of \$90,000.00. Ms. Jaffer is a Lawyer. There were over 270 postings made, beginning in 2014. The postings included a fake obituary stating that Ms. Jaffer died in an accident while driving drunk. The defamatory statements allege that Ms. Jaffer is a criminal, failure, liar, thief, fraud, sexual deviant, sexual predator, online predator, prostitute, escort and/or performed sexual acts for money, and that she is abhorrent, abusive, disgusting, immoral and/or unethical, incompetent, inept, lazy, loathsome, promiscuous, stupid, and unprofessional. Other defamatory statements include that she lacks integrity, intelligence, and professional and/or academic training and/or experience, should be avoided, should be feared, threatens and/or intimidates others, fraudulently represents herself on dating websites, committed sexual assault and/or sexual harassment, drives while drunk, has engaged in criminal acts, has sexually transmitted diseases including HIV / AIDS, misappropriates funds from her clients, is a dishonest, fraudulent and/or untrustworthy lawyer, intentionally misrepresents herself and/or legal credentials, committed professional negligence, is unfaithful and/or commits adultery, has flawed character, and violated the Law Society of Upper Canada's Rules of Professional Conduct.

[98] Ms. Jaffer expressed concerns about the significant, irreparable harm to her personal and professional reputations. She believes the postings have had an effect on her engaging clients, affected her career advancement, and her ability to form romantic relationships.

15. Felicia Glace

[99] I assess Ms. Glace's general damages in the amount of \$50,000.00. Ms. Glace is a Recruiter at Cisco. The defamatory statements describe her as racist, xenophobic and homophobic, repugnant, unprofessional, incompetent and/or inept, among other things. Other defamatory statements brand her as a bad recruiter, and alleges that she violates her employer's policies, and carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner. There were over 5 postings made, beginning on December 11, 2013.

16. Heather Vickers

[100] I assess also assess Ms. Vickers' general damages in the amount of \$50,000.00. Her posts are almost the same as that of Ms. Glance's, above. There were over 5 postings made, beginning May 20, 2016. In addition to the impact on her ability to attract candidates, Ms. Vickers fears the defamatory statements may negatively impact her custody dispute.

17. Hilton Romanski

[101] Mr. Romanski is a Partner at Siris Capital Group, and the former Senior Vice-President and Chief Strategy Officer at Cisco. There were over 45 postings made, beginning November 11, 2014. Mr. Romanski is described as a rapist, a sexual predator, and alleged to be engaging in sexual activities with minor. Other defamatory statements allege that he engages in insider trading and money laundering. The statements run the gamut calling him a cheater, child predator, criminal, fraud, sexual predator, and adulterer. He is also described unprofessional, verbally abusive, engages in sexual misconduct and/or sexual harassment and has a bad moral character.

[102] I assess also assess Mr. Romanski's general damages in the amount of \$95,000.00.

18. Jacques Conand

[103] I assess also assess Mr. Conand's general damages in the amount of \$95,000.00.

[104] Mr. Conand is the Director of Product Management, Software Products, at Micro Focus/HPE. He is described in some of the postings as a pedophile, racist, child molester, sexual predator, criminal, liar, rapist, sex offender, sexual deviant, sexual or online predator, and fraud. Other defamatory statements include that he has committed adultery, committed sexual assault and/or sexual harassment, and engaged in sex crimes and sexual misconduct, and that he is abusive to his co-workers, subordinates and colleagues, cruel and/or mean, arrogant, dangerous, disliked, disrespectful, discourteous and/or difficult, immoral and/or unethical, incompetent and/or inept, lazy, repugnant, rude, arrogant and temperamental, stupid, unfaithful to his spouse, unprofessional, feared by his colleagues and/or subordinates, hostile and/or fosters a hostile work environment, and that he lacks intelligence, should be avoided, should be feared, and uses the Internet to sexually prey on victims.

[105] There were over 210 postings made, beginning January 11, 2017.

19. Jamal Raza

[106] Mr. Raza is the Executive Vice President at Complete Innovations c.o.b. Fleet Complete. There were over 225 postings made, beginning September 2013.

[107] The defamatory statements allege that he is a criminal, fraud, pedophile, rapist, sexual deviant, sexual predator, online predator, unethical, unfaithful to his spouse, unprofessional, violent and dangerous. Other defamatory statements include that he commits adultery, rape and/or sexual assault and sexual harassment, engages escort and/or prostitution services, committed criminal offences, engaged in non-consensual sex, sex crimes, sexual misconduct, and sexual acts with minors, prostitutes, and underage persons, has sexually transmitted diseases including HIV/AIDS, has solicited the services of prostitutes, has taken advantage of innocent women, should be avoided and feared, and uses the Internet to sexually prey on victims.

[108] I assess also assess Mr. Raza's general damages in the amount of \$95,000.00.

20. James Brian Doran

[109] Mr. Doran is the Executive Vice President of Five9 and was formerly a Vice President at Cisco. There were over 3 postings made, beginning November 3, 2014. The defamatory statements claim that he has engaged in sexual misconduct and/or sexual harassment at work, lacks intelligence, and is incompetent, a cheater, a fraud, and an adulterer. dishonest, disliked, unethical, unfaithful to his spouse, unprofessional, and verbally abusive, cruel and/or mean.

[110] I assess also assess Mr. Raza's general damages in the amount of \$70,000.00.

21. Javed Khan

[111] There were over 150 postings made, beginning February 10, 2016.

[112] Mr. Khan is a Vice-President at Cisco. The defamatory statements describe him as a sexual predator. Other defamatory statements include that he is a criminal or has engaged in criminal acts, a harasser, pervert, pedophile, sexual deviant, sexual predator, adulterer, liar, and online predator, and that he commits adultery, engages in criminal acts, has bad moral character, has committed sexual assault, has engaged in sexual misconduct and sexual harassment at work, is committing fraudulent acts to assist with illegal immigration, lacks intelligence and is incompetent, should be avoided and feared, and uses the Internet to sexually prey on victims. Still other attack his professionalism and work ethics, calling him incompetent and/or inept, lazy, obsessive, repugnant, stupid, incompetent and a failure, the subject of ridicule and contempt.

[113] I assess also assess Mr. Khan's general damages in the amount of \$90,000.00.

22. Karthik Subramanian

[114] Mr. Subramanian is a Senior Director at Cisco. The Defendant posted defamatory statements about Mr. Subramanian, including that he is immoral and/or unethical, not fit to work for his employer, a criminal or has engaged in criminal acts, and that he has committed unlawful acts, is a fraud and/or is dishonest, and violates his employer's policies.

[115] There were over 6 postings made, beginning April 2, 2015. I assess also assess his general damages in the amount of \$60,000.00.

23. Kathleen Noonan

[116] Ms. Noonan is a Senior Recruiter at HPE. There were over 40 postings made, beginning May 24, 2017. Ms. Noonan is described in some of these postings as immoral and/or unethical, promiscuous, dishonest, aggressive, unprofessional, lazy, and not fit to recruit for her employer. She is also referred to as a bad recruiter, fraud, liar and/or a cheat, racist, bigot, homophobe and/or xenophobe, as well as a sexual deviant. I assess her general damages in the amount of \$75,000.00.

24. Kevan Blanco

[117] Mr. Blanco is a Recruiter for VMware. There were over 160 postings made, beginning on May 17, 2017. In the postings, Mr. Blanco is described as a pedophile and sexual predator and someone who engages in criminal activity. Other defamatory content describes him as dishonest, fraudulent and/or a liar. He is said to commit adultery and noted to be someone who engages escort and/or prostitution services and has engaged in sexual acts with underage persons. There are other allegations of Mr. Blanco engaging in sexual misconduct, having sexually transmitted diseases and is said to be a source of ridicule and contempt, and an embarrassment to his employer.

[118] I assess Mr. Blanco's general damages in the amount of \$80,000.00

25. Kirsten Hill

[119] Ms. Hill is a Recruiter at Cisco. The Defendant posted defamatory statements about Ms. Hill, including that she is arrogant, dishonest, disrespectful and lacking in manners and/or social etiquette, immoral, incompetent and/or unprofessional, not fit to recruit for her employer, prejudicial, promiscuous, racist, xenophobic and homophobic, repugnant, and unfaithful to her spouse. Other defamatory statements include that she commits adultery, should be avoided, violates her employer's policies, and is a bad recruiter, sex addict, sexual deviant, and an embarrassment to her employer.

[120] There were over 4 postings made, beginning October 8, 2015. I assess Ms. Hill's general damages in the amount of \$80,000.00

26. Laura Leigh Schneider

[121] Ms. Schneider is a Recruiter at Cisco and Amazon. There were over 150 postings made, beginning March 27, 2015. She is described as a fraud, liar and/or cheat, a pedophile, sexual deviant, sexual predator, online predator and someone who uses the Internet to sexually prey on victims and someone who has committed adultery, sexual assault and/or sexual harassment. Other content describes her as a deviant, dishonest, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral, incompetent and/or inept, unprofessional, lazy, not fit to recruit for her employer, prejudicial, promiscuous, racist, xenophobic, homophobic, among other things.

[122] I assess Ms. Schneider's general damages in the amount of \$85,000.00

27. Maciej Kranz

[123] I assess Mr. Kranz' general damages in the amount of \$90,000.00

[124] Mr. Kranz is a Vice-President at Cisco. There have been over 90 postings made, beginning August 13, 2015. The defamatory statements about Mr. Kranz, alleges that he is a sexual deviant, is a sexual predator, commits adultery, engages escort and/or prostitution services, has engaged

in criminal acts, sexual acts with underage persons, sexual misconduct and/or sexual harassment at work, lacks intelligence, uses company funds to pay for sex services. Others claim he is abusive, cruel fraudulent and/or a liar, and yet others attack his professional, some concluding that he is a source of ridicule and contempt.

28. Marc Aldrich

[125] I assess also Mr. Aldrich' general damages in the amount of \$90,000.0. The post about hm a similar to those bout Mr. Kranz.

[126] Mr. Aldrich is an Executive at Cisco. here have been over 80 postings made, beginning June 2015. In the postings, Mr. Aldrich is described as a sexual predator who embezzles company funds. The defamatory statements claim that he is a pedophile, sexual deviant, sexual predator, stalker, criminal or has engaged in criminal acts, and online predator, and that he is abusive, dishonest, fraudulent and/or a liar, immoral and/or unethical, the subject of ridicule and contempt, and unfaithful to his spouse. Other defamatory statements include that he commits adultery, engages escort and/or prostitution services, engages in criminal acts, has committed sexual assault and/or sexual harassment, has engaged in criminal acts and sexual misconduct, should be avoided and feared, and that he uses company funds to pay for sexual services and uses the Internet to sexually prey on victims.

29. Mari Sullivan

[127] Ms. Sullivan is a Recruiter at Cisco. The Defendant posted defamatory statements about Ms. Sullivan, including that she is racist, xenophobic, homophobic, repugnant, unprofessional, incompetent and/or inept, the subject of ridicule and contempt, arrogant, a bad recruiter, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, not fit to recruit for her employer, and prejudicial. Other defamatory statements include that she violates her employer's policies, should be avoided, and carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner.

[128] There was at least one posting made, beginning October 29, 2015. I assess Ms. Sullivan's general damages in the amount of \$55,000.0.

30. Marianna Gurovich

[129] Ms. Gurovich is a Senior Manager at Oracle. The Defendant posted defamatory statements about Ms. Gurovich, including that she is a bad recruiter, liar and/or a cheat, racist, bigot, homophobe and/or xenophobe, a source of ridicule and contempt, an embarrassment to her employer, and a fraud and/or is dishonest, and that she is deviant, dishonest, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral, incompetent and/or unprofessional, lazy, not fit to recruit for her employer, promiscuous, repugnant, and unfaithful to her spouse. Other defamatory statements include that she has committed adultery, has sexually transmitted diseases, should be avoided, and violates her employer's policies.

[130] There have been over 105 postings made, beginning September 11, 2015. I assess Ms. Gurovich's general damages in the amount of \$70,000.0.

31. Marjory Remy

[131] Ms. Remy is a Senior Recruiter at Cisco. The Defendant posted defamatory statements about Ms. Remy, including that she is deviant, disgusting, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, discourteous and/or difficult, immoral, loathsome, obnoxious, prejudicial, promiscuous, racist, xenophobic, homophobic, repugnant, unhygienic, and a liar and a fraud. Other defamatory statements include that she violates her employer's policies and should be avoided.

[132] There have been over 155 postings made, beginning June 16, 2015. I assess Ms. Remy's general damages in the amount of \$85,000.0.

32. Mary Catherine Hudson

[133] Ms. Hudson is a Senior Talent Acquisition Advisor at HPE. There have been over 45 postings made, beginning March 23, 2016. Ms. Hudson's line of work is based on Standards of Conduct and maintaining the highest level of ethics and integrity. The defamatory statements about Ms. Hudson, including that she is a bad recruiter, racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, embarrassment to her employer, online predator, fraud and/or fraudulently represents herself on dating websites, and that she is disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral and/or unethical, incompetent and/or unprofessional, lazy, loathsome, not fit to recruit for her employer, promiscuous, repugnant, and is unfaithful and/or commits adultery. Other defamatory statements include that she is a prostitute, escort, and/or performs sexual acts for money, has committed sexual assault and/or sexual harassment, has engaged in criminal act, has sexually transmitted diseases including HIV/AIDs, should be avoided and feared, uses the Internet to sexually prey on victims, and violates her employer's policies.

[134] I assess Ms. Hudson's general damages in the amount of \$85,000.0.

33. Mary Celeste (MC) Didone

[135] Ms. Didone is a Senior Recruiter at Oracle. There have been over 108 postings made, beginning October 28, 2016. The defamatory statements describe her as criminal, money launderer, racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, pimp, source of ridicule and contempt, tax evader, and an embarrassment to her employer. Other defamatory statements include that she is dishonest, deceitful and/or a liar, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, fraudulent and/or a liar, incompetent and/or inept, unprofessional, lazy, not fit to recruit for her employer, repugnant, unethical, and that she engages in sex, child and/or human trafficking, has sexually transmitted diseases including HIV/AIDS, runs escort and/or prostitution services, should be feared, and violates her employer's policies.

[136] I assess Ms. Didone's general damages in the amount of \$85,000.0.

34. Meera Ganesh

[137] Ms. Ganesh is a Recruiter at Cisco. There have been over 4 postings made, beginning October 13, 2015. I have assessed general damages in the amount of \$50,000.00. The defamatory statements about Ms. Ganesh, include statements that she is racist, xenophobic and homophobic, prejudicial, repugnant, arrogant, unprofessional, incompetent and/or inept, the subject of ridicule and contempt, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, and not fit to recruit for her employer. Other defamatory statements include that she should be avoided, violates her employer's policies, and is a bad recruiter and carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner.

35. Michael Ginn

[138] I assess Mr. Ginn's general damages in the amount of \$85,000.00. There were over 145 postings made, beginning October 24, 2013. Mr. Ginn is a Senior Recruiter at Cisco. The Defendant posted defamatory statements about Mr. Ginn, including that he is immoral, promiscuous, arrogant, dishonest, fraudulent and/or a liar, unfaithful to his spouse, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, incompetent, inept and/or unprofessional, lazy, not fit to recruit for his employer, repugnant, and that he is a fraud, liar and/or a cheat, homosexual, an escort and/or has performed sexual acts for money, a bad recruiter, criminal or has engaged in criminal acts, a pedophile, racist, bigot, homophobe and/or xenophobe, a sexual deviant, sexual predator, and a source of ridicule and contempt, an embarrassment to his employer, and an online predator. Other defamatory statements include that he commits adultery, engages escort and/or prostitution services, engages in criminal acts, has committed sexual assault and/or sexual harassment, commits adultery, carries out his recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner, should be avoided and feared, uses the Internet to sexually prey on victims, and violates his employer's policies.

36. Michael Montgomery

[139] Mr. Montgomery is a Senior Recruiter at Oracle. The defamatory statements about Mr. Montgomery, including that he is a bad recruiter, criminal or has engaged in criminal acts, fraud and/or is dishonest, pedophile, racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, an embarrassment to his employer, an online predator, and that he is dishonest, fraudulent and/or a liar, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral and/or unethical, incompetent and/or unprofessional, lazy, not fit to recruit for his employer, repugnant, the subject of ridicule and contempt, and unfaithful to his spouse. Other defamatory statements include that he commits adultery, engages escort and/or prostitution services, engages in criminal acts, has committed sexual assault and/or sexual harassment, has engaged in sexual acts with underage persons, has engaged in sexual

misconduct, should be avoided and feared, uses the Internet to sexually prey on victims, and violates his employer's policies.

[140] There were over 170 postings made, beginning October 1, 2015. I assess Mr. Montgomery's general damages in the amount of \$80,000.00.

37. Michael Remza

[141] Mr. Remza is a Recruiter at Cisco. There were over 120 postings made, beginning October 26, 2016. In the postings, Mr. Remza is described as a "gay male gigolo". He is alleged to be a criminal or has engaged in criminal act, a pedophile, sexual deviant, sexual predator, a source of ridicule and contempt, an embarrassment to his employer, an online predator, and that he is abusive, arrogant, dishonest, fraudulent and/or a liar, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral and/or unethical, incompetent and/or unprofessional, not fit to recruit for his employer, prejudicial, racist, xenophobic and homophobic, and the subject of ridicule and contempt. Other defamatory statements include that he engages escort and/or prostitution services, engages in criminal acts, has committed sexual assault and/or sexual harassment, has engaged in sexual misconduct, should be avoided and feared, uses company funds to pay for sex services, uses the Internet to sexually prey on victims, and violates his employer's policies.

[142] I assess Mr. Montgomery's general damages in the amount of \$80,000.00.

38. Mira McDaniel

[143] Ms. McDaniel is a Recruiter at Dell/EMC. The Defendant posted defamatory statements about Ms. McDaniel, including that she is unfaithful to her spouse, abusive, deviant, immoral and/or unethical, dishonest, promiscuous, lazy, incompetent and/or unprofessional, repugnant, arrogant, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, not fit to recruit for her employer, and that she is a fraud, liar and/or a cheat, sexual or online predator, embarrassment to her employer, source of ridicule and contempt, fraud and/or is dishonest and that she is a bad recruiter and should be fired. Other defamatory statements include that she has sexually transmitted diseases including HIV/AIDS, commits adultery, is a racist, bigot, homophobe and/or xenophobe, carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner, violates her employer's policies, and should be avoided.

[144] There were over 115 postings made, beginning June 6, 2017. I would assess Ms. McDaniel's general damages in the amount of \$85,000.

39. Miriam Drummond

[145] Ms. Drummond is a Senior Recruiter at VMware. The Defendant posted defamatory statements about Ms. Drummond, including that she is a fraud, liar and/or a cheat, a sexual deviant and a sexual predator, and that she is dishonest, immoral, promiscuous, repugnant, unfaithful to

her spouse, and has committed adultery. There were over 45 postings made, beginning March 15, 2016.

[146] I would assess Ms. Drummond's general damages in the amount of \$85,000.

40. Monica Plata Severyn

[147] Ms. Severyn is a Recruiter at Facebook. The defamatory statements allege that she is a former prostitute, escort and/or has performed sexual acts for money, that she is a bad recruiter, bigot, bigamist, homophobe and/or xenophobe, fraud, liar and/or a cheat, pedophile, racist, sexual deviant, and sexual predator. Other defamatory statements include that she has HIV/AIDS, carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner, has committed adultery, sexual assault and/or sexual harassment, has engaged in criminal acts, should be avoided and feared, uses the Internet to sexually prey on victims, and violates her employer's policies. She is alleged to be incompetent, unprofessional, lazy, not fit to recruit for her employer. There were over 160 postings made, beginning October 24, 2016.

[148] I have assessed her general damages in the amount of \$80,000.

41. Mosfiqur (Mo) Rahman

[149] Mr. Rahman is currently unemployed, and formerly worked as the Senior Director, Services at EMC (Dell). The Defendant posted defamatory statements about Mr. Rahman, including that he is a bigamist and/or polygamist, criminal or engaged in criminal activity, a fraud, liar and/or a cheat, racist, rapist, and/or commits sexual assault and sexual harassment, sexual deviant, and that he is abusive, cruel, mean and/or disrespectful, dishonest, hostile and/or fosters a hostile work environment, immoral and/or unethical, repugnant and/or feared, temperamental, and is unfaithful to his spouse and/or has committed adultery. Other defamatory statements include that he has committed adultery, is on dating sites and should be avoided, has served time in jail, has sexually transmitted diseases including HIV/AIDS, and lacks intelligence.

[150] There were over 100 postings made, beginning September 28, 2016. He is unemployed and has been unable to secure new employment for several months, despite being qualified for the positions for which he has applied. He believes the postings have contributed to his inability to secure new employment, because employers are likely to google his name and be discouraged from offering him an interview. I have assessed her general damages in the amount of \$90,000.

42. Nicole Ceranna

[151] Ms. Ceranna is a Principal Talent Advisor at Oracle. The Defendant posted defamatory statements about Ms. Ceranna, including that she is a bad recruiter, fraud and/or fraudulently represents herself on dating websites, a racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, and an embarrassment to her employer

and that she is disgusting, disrespectful, asocial, aggressive, and that she is lacking in manners and/or social etiquette, incompetent and/or unprofessional, lazy, loathsome, not fit to recruit for her employer, promiscuous, repugnant, and unattractive. Other defamatory statements include that she committed sexual assault and/or sexual harassment, sexually pursues younger men, and violates her employer's policies.

[152] There were over 170 postings made, beginning September 15, 2016. I have assessed Ms. Ceranna's general damages in the amount of \$90,000.

43. Nicole Palmer

[153] Ms. Palmer is a Principal Talent Advisor at Oracle. The Defendant posted defamatory statements about Ms. Palmer, including that she is a bad recruiter, former prostitute, escort, and/or has performed sexual acts for money, a fraud and/or fraudulently represents herself on dating websites, a racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, embarrassment to her employer, online predator, and that she is abusive, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral and/or unethical, incompetent and/or unprofessional, lazy, loathsome, not fit to recruit for her employer, promiscuous, repugnant, the subject of complaints, unethical and/or immoral, unfaithful and/or commits adultery, and is unprofessional. Other defamatory statements include that she committed sexual assault and/or sexual harassment, has engaged in criminal acts, has sexually transmitted diseases, including HIV/AIDS, should be avoided and feared, and violates her employer's policies.

[154] There were over 132 postings made, beginning in 2013. I have assessed Ms. Palmer's general damages in the amount of \$90,000.

44. Paula Cao

[155] Ms. Cao is a Senior Recruiter at Cisco. The Defendant posted defamatory statements about Ms. Cao, including that she is a fraud, liar and/or a cheat, a pedophile, sexual deviant, sexual predator, online predator, and that she is bisexual, deviant, dishonest, disrespectful, discourteous, asocial, aggressive, and lacking in manners and/or social etiquette, immoral and/or unethical, incompetent and/or inept, not fit to recruit for her employer, prejudicial, promiscuous, racist, xenophobic and homophobic, repugnant, the subject of ridicule and contempt, and unprofessional. Other defamatory statements include that she engages in criminal acts, has committed sexual assault and/or sexual harassment, should be avoided and feared, uses the Internet to sexually prey on victims, and violates her employer's policies.

[156] There were over 90 postings made, beginning July 21, 2015. I have assessed Ms. Cao's general damages in the amount of \$90,000.

45. Philip Cooksey

[157] Mr. Cooksey is a Senior Principal Talent Advisor at Oracle. The Defendant posted defamatory statements about Mr. Cooksey, including that he is a pimp, sexual deviant, criminal or

has engaged in criminal acts, a tax evader, sexual predator, bad recruiter, racist or bigot and that he is fraudulent, dishonest and or a liar, incompetent and/or unprofessional, engages in sex, child and/or human trafficking, runs escort and/or prostitution services, and should be feared.

[158] There were over 90 postings made, beginning September 2015. In the postings, he is described as running an underage sex trafficking ring that serves politicians. The postings have caused significant irreparable harm to his personal and professional reputations, from which he may never recover.

[159] I have assessed Mr. Cooksey's general damages in the amount of \$90,000.

46. Robyn Matos/Holland

[160] Ms. Matos/Holland is a Recruiter at Oracle. The Defendant posted defamatory statements about Ms. Matos/Holland, including that she is a bad recruiter, criminal or has engaged in criminal acts, a drug user, fraud, liar and/or a cheat, pedophile, pervert, prostitute and/or has performed sexual acts for money, prostitute, sexual deviant, sexual predator, online predator, and that she is deviant, dishonest, fraudulent and/or a liar, disrespectful, discourteous, asocial, aggressive, and lacking in manners and/or social etiquette, immoral, incompetent and/or inept, not fit to recruit for her employer, prejudicial, promiscuous, racist, xenophobic and homophobic, repugnant, unfaithful to her spouse, and unprofessional. Other defamatory statements include that she engages escort and/or prostitution services, engages in criminal acts, has committed adultery, has committed sexual assault and/or sexual harassment, has HIV/AIDS, should be avoided and feared, uses the Internet to sexually prey on victims, and violates her employer's policies.

[161] There were over 160 postings made, beginning April 29, 2014. I have assessed Ms. Holland's general damages in the amount of \$85,000.

47. Ruba Borno

[162] Ms. Borno is the Vice-President Growth Initiative and Chief of Staff to CEO at Cisco. The Defendant posted defamatory statements about Ms. Borno, including that she is a sexual deviant and sexual predator, and that she is arrogant, dishonest, fraudulent and/or a liar, immoral and/or unethical, incompetent and/or inept, the subject of ridicule and contempt, and unprofessional. Other defamatory statements include that she committed adultery, creates a toxic environment, had an affair with the CEO of Cisco, had plastic surgery, has engaged in sexual misconduct, has sexually transmitted diseases, lacks intelligence and was unfaithful to her spouse. There were over 150 postings made, beginning July 6, 2016.

[163] I have assessed Ms. Borno's general damages in the amount of \$85,000.

48. Ruchi Echevarria

[164] Ms. Echevarria is a Recruiter at Cisco. The Defendant posted defamatory statements about Ms. Echevarria, including that she is racist, xenophobic and homophobic, repugnant, unprofessional, incompetent and/or inept, a bad recruiter, prejudicial, arrogant, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, is the subject of ridicule and contempt, not fit to recruit for her employer, and prejudicial. Other defamatory statements include that she should be avoided, violates her employer's policies, and that she carries out her recruiting responsibilities in a biased, prejudiced, arbitrary and/or discriminatory manner.

[165] There were over 5 postings made, beginning February 26, 2016. I have assessed Ms. Echevarria's general damages in the amount of \$65,000.

49. Shauna Daly

[166] Ms. Daly is a Senior Talent Acquisition Consultant at Micro Focus/HPE. The Defendant posted defamatory statements about Ms. Daly, including that she is a bad recruiter, sexual deviant, sexual predator, source of ridicule and contempt, and an embarrassment to her employer, and that she is disrespectful, snide, racist, xenophobic and homophobic, immoral, inept, not fit to recruit for her employer, promiscuous, and repugnant. Other defamatory statements include that she engages escort and/or prostitution services, has sexually transmitted diseases including HIV/AIDS, should be avoided, and violates her employer's policies.

[167] There were over 80 postings made, beginning April 6, 2017. I have assessed Ms. Daly's general damages in the amount of \$80,000.

50. Stacie Torello Wilk

[168] Ms. Wilk is an Executive Recruiter at HPE. The Defendant posted defamatory statements about Ms. Wilk, including that she is a fraud, liar and/or a cheat, bad recruiter, pedophile, racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, embarrassment to her employer, and online predator, and that she is deviant, dishonest, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, immoral, incompetent and/or unprofessional, lazy, not fit to recruit for her employer, promiscuous, repugnant, and unfaithful to her spouse. Other defamatory statements include that she engages in criminal acts, committed adultery, committed sexual assault and/or sexual harassment, has sex with minors and/or underage persons, should be avoided and feared, uses the Internet to sexually prey on victims, and violates her employer's policies.

[169] There were over 125 postings made, beginning December 4, 2015. I have assessed Ms. Wilk's general damages in the amount of \$85,000.

51. Surya Panditi

[170] Mr. Panditi is a Senior Vice President and General Manager at CA Technologies. The Defendant posted defamatory statements about Mr. Panditi, including that he is a bad manager, criminal or has engaged in criminal acts, a failure, pedophile, sexual deviant, sexual predator, liar

and/or a fraud, and that he is active on dating websites, is disgraceful, dishonest, immoral and/or unethical, incompetent and/or inept, the subject of ridicule and contempt, and is unfaithful to his spouse or commits adultery. Other defamatory statements include that he commits sexual harassment at the workplace, had sexual affairs with female subordinates, has engaged in sexual acts with underage persons, has engaged in sexual misconduct, unlawfully and/or immorally leveraged his professional position for the purpose of engaging in a sexual affair with a subordinate, wrongfully and/or immorally engaged in an improper extra-marital sexual affair, and wrongfully, and unlawfully and/or immorally committed commercial bribery by taking “kickbacks” in connection with commercial transactions.

[171] There were over 5 postings made, beginning September 24, 2013. I have assessed Mr. Panditi’s general damages in the amount of \$85,000.

52. Talie Dang-Lu

[172] Ms. Dang-Lu is unemployed and was formerly a Recruiter at VMware. The Defendant posted defamatory statements about Ms. Dang-Lu, including that she is a bad recruiter, fraud and/or is dishonest, a liar and/or a cheat, prostitute and/or performs sexual acts for money, racist, bigot, homophobe and/or xenophobe, sexual deviant, sexual or online predator, source of ridicule and contempt, embarrassment to her employer, and that she is dishonest, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, incompetent and/or unprofessional, lazy, not fit to recruit for her employer, on dating sites, promiscuous, repugnant, and unfaithful to her spouse. Other defamatory statements include that she commits adultery, has sexually transmitted diseases, should be avoided, and violates her employer’s policies.

[173] There were over 95 postings made, beginning on May 14, 2016. I have assessed Ms. Talie Dang-Lu’s general damages in the amount of \$85,000.

53. Tracy Clancy

[174] Ms. Clancy is a Senior Recruiter at DigitasLBI/SapientNitro. The Defendant posted defamatory statements including that Ms. Clancy is a bad recruiter, fraud and/or fraudulently represents herself, a liar and/or a fraud, a pedophile, racist, bigot, bigamist, homophobe and/or xenophobe, sexual deviant, sexual predator, source of ridicule and contempt, embarrassment to her employer, online predator, and that she is disgusting, dishonest, disrespectful, asocial, aggressive, and lacking in manners and/or social etiquette, incompetent and/or unprofessional, inept, lazy, loathsome, not fit to recruit for her employer, obsessive, promiscuous, repugnant, unattractive, and unfaithful. Other defamatory statements include that she committed sexual assault and/or sexual harassment, engages in criminal acts, sexually pursues younger men, should be avoided and feared, uses the Internet to sexually prey on younger victims, and violates her employer’s policies.

[175] There were over 225 postings made, beginning on August 30, 2016. She is concerned that the postings place her career at grave risk and harm her any future career endeavors. Social media

is one of the main tools used in her industry to source, recruit and assess candidates. She also uses it in her personal life to connect with friends and family. She has now de-activated her Facebook, privatized her Twitter and no longer uses other social media for fear she will be targeted on those networks as well. I have assessed Ms. Clancy's general damages in the amount of \$85,000.

vii. Are the plaintiffs entitled to aggravated damages?

[176] The plaintiffs seek \$100,000.00 in aggravated damages from Mr. Farid, or \$1,886.80 for each plaintiff.

[177] Aggravated damages, like general damages, is intended to compensate the injured plaintiff for the harm occasioned by the defamatory statement. Aggravated damages are awarded in such cases where the defendant's conduct has been particularly high-handed, malicious, or oppressive, increasing the plaintiffs' humiliation and anxiety arising from the defamatory statement. The entirety of the defendants' conduct, including prior to the publication of the libel, is considered. Factors in considering aggravated damages include whether the defendants' motives and conduct aggravate the injury done to the plaintiff and whether there is malice or spite. *Paramount Foods v. Johnston*, 2019 ONSC 2910, at paras. 74, citing; *Hill* at para. 191

[178] In my view, much of the defamatory statements are high-handed or oppressive, calculated to embarrass and humiliate the plaintiffs, and in many cases have increased the mental anguish and embarrassment of some of the plaintiffs. Much of the defamatory content is sexually explicit, disturbing, and perverse. It describes in explicit detail the alleged sexual exploits of some of the plaintiffs. The defamatory postings have not only caused significant embarrassment to the plaintiffs, but in many cases, to their families as well. Some of the Plaintiffs, who are being described as pedophiles, or of having sexual relations with minors, are parents. Their children's friends and/or the parents of their children's friends may have read the Defamatory Content and may have chosen to avoid, or not to engage with, the Plaintiffs or their children. For example, one Plaintiff, who used to coach little-league baseball for his children's leagues, has been discouraged from doing so due to these defamatory postings.

[179] As executives, recruiters and a lawyer, the plaintiffs must carry out their professional duties with a high degree of professionalism, integrity, honesty and commitment to diversity. The defamatory Content referring to the plaintiffs as criminals, liars, frauds, dishonest, racist, homophobic, bigots, etc. are particularly harmful to their professional reputations. A significant number of the plaintiffs (and their family members) have experienced mental health issues.

[180] On the evidence, the defendant's actions were primarily motivated by malice. He was spiteful and vindictive. Malice is established if it is shown that the defendant was motivated by an unjustifiable intention to injure the plaintiff: *Hill*, at para. 190. He knew the statements were false because he manufactured them. He chose a medium that was borderless, ubiquitous, and where ruinous defamatory statements would reside, perhaps forever, and grow exponentially. He planted the defamatory comments on multiple websites with salacious content. Both the defamatory content, where they were posted, and the medium chosen were calculated to cause maximum

reputational harm. I agree with the plaintiffs that the defendant's conduct was malicious, vindictive and outrageous.

[181] Regarding the recruiter-plaintiffs, their livelihood depends on their ability to attract top candidates for the roles for which they are recruiting. Given the pervasiveness of the defamatory postings online and their appearance at the top search engine results when the Plaintiffs' names are searched, it is unknown and impossible to ascertain how many qualified candidates have read the defamatory content and have consequently elected not to apply for the positions for which the plaintiffs were recruiting.

[182] As for the executives, the defamatory content not only harms their professional reputations but also those of the companies which they publicly represent. Some plaintiffs have been unemployed and have had difficulty securing new positions. It is not unreasonable for these particular plaintiffs to believe that defamatory content contributed to their inability to secure new employment, as potential employers are likely to "Google" them.

[183] The defamatory content has also caused some of the plaintiffs to fear for their and their family members' safety. The defendant has continued to spread the insidious falsehoods about the plaintiffs even after the commencement of the action, further exacerbated the harm already inflicted by the defamatory posts.

[184] Many of the plaintiffs have expressed the increase in mental distress, humiliation caused by the defamatory content on the internet. On the evidence before me, an award of aggravated damages to each of the plaintiffs below is justified, as not only was the defendant motivated by malice in the publication of the defamatory content, but there is evidence from these particular plaintiffs that in addition to the damage to their reputation, the defamatory postings have caused them anxiety and or significant mental distress, mental anguish, emotional trauma and/or embarrassment.

[185] For the reasons below, I would award the plaintiffs identified below aggravated damages in the amount of \$1,500.00.

[186] Aengus Linehan, who was described as a pedophile and sexual predator, says that the postings have caused him significant mental distress and anguish. He is a father of three, and his children's friends come over to his home. The defamatory postings suggesting that he has sex with underage girls have been particularly harmful.

[187] Alvie Bert Kraatz III, was also described as a pedophile, sexual predator, rapist, states that the postings have caused him significant mental anguish and embarrassment. As a recruiter, his effectiveness and ability to make a living is dependent upon his ability to attract top candidates.

[188] Brent Schreckengost, accused of drugging underage boys, preying on minors, engaging in criminal activities, indicates that his livelihood is at risk, with little prospect of finding a new job. The defamatory postings have caused him significant mental distress and anguish and embarrassment.

[189] Cheyenne Deverna has been identified in the defamatory postings as, among other things, a fraud, dishonest, a racist, bigot, homophobe and xenophobe, who violates her employer's policies. She expressed concerns that her bi-racial relatives may discover the defamatory posts. The postings have caused her significant mental distress, and she has been diagnosed with anxiety and has anxiety attack when she hears the defendant's name.

[190] The defamatory postings about Christine Feng claims she is promiscuous, unethical or immoral, an adulterer, and a person with a sexually transmitted disease. The defamatory postings have caused her significant mental distress, anguish and embarrassment.

[191] Dan Grossman is described in the defamatory postings as a sexual predator, fraud, adulterer and a person who engages in sexual misconduct and harassment at work. The postings have created significant mental distress, anguish and embarrassment for him and his family.

[192] Daniel Christopher Koloski is described as engaging in escort and/or prostitution services, criminal acts, and committing sexual assault and/or sexual harassment among other things. He says the defamatory postings have caused him mental anguish and distress.

[193] David Lynn is described as a sexual deviant or predator, adulterer, fraud, racist, bigot, homophobe and/or xenophobe. Mr. Lynn indicates the postings have caused him and his family significant embarrassment and mental anguish.

[194] Fahrin Jaffer describes fearing for her safety and experiencing significant mental distress, anguish and embarrassment. As the defendant lives in Toronto she has experienced immense stress and anxiety, and is fearful of entering and exiting work on a daily basis, or working at the office alone on weekends.

[195] Hilton Romanski is described as engaging in insider trading, money laundering and sexual activity with minors. The defamatory postings have caused him significant mental distress and anguish.

[196] Jacques Conand, who is described in some of the defamatory posts as a pedophile, rapist and fraud, and having committed sexual assault, sexual harassment, and sex crimes, indicates He believes defamatory postings may impact his future employment opportunities. They have caused him an family significant mental distress, anguish and embarrassment.”

[197] The plaintiff Jamal Raza is said to have engaged in escort and/or prostitution services and committing criminal offences. Mr. Raza says that as a husband and father to a teenage son, the sexually explicit defamatory postings have caused extreme embarrassment to him and his family, and, as well, caused him significant mental anguish and distress. He is concerned about his and his family's safety.

[198] The plaintiff James Brian Doran is described as having bad moral character, a cheater, fraud, and engaging in sexual misconduct and/or sexual harassment at work. The postings have caused him and his family significant embarrassment and mental anguish. He indicates that the

defamatory postings extremely embarrassing to ho him and his family, and have caused him significant mental distress and anguish

[199] Kevan Blanco is described as engaging escort and/or prostitution services and sexual acts with underage persons. The postings are extremely embarrassing to him and his family and have caused him significant mental distress and anguish.

[200] Laura Leigh Schneider is described as engaging in escort and/or prostitution services, sexual assault, and criminal acts, among other things. The defamatory comments have caused her significant mental distress and anguish.

[201] Marc Aldrich is described as engaging in criminal acts, engaging escort and/or prostitution services, committing sexual assault and/or sexual harassment, among other things. The postings have caused him and his family embarrassment.

[202] Marianna Gurovich is described as promiscuous, dishonest, a cheat and a fraud as well as a racist, bigot, homophobe and/or xenophobe. The postings have caused harmed her personally and embarrassed her as well as her children.

[203] Some of the postings describe the plaintiff Marjory Remy as promiscuous, a liar and a fraud unhygienic and should be avoided. Ms. Remy indicates that she finds the lack of hygiene statements extremely embarrassing.

[204] The plaintiff Mary Celeste (MC) Didone is described as engaging in sex, child and /or human trafficking, pimp, and a money launderer. The defamatory statements have caused her significant mental distress and anguish.

[205] The plaintiff Michael Ginn is described as a fraud, liar and/or a cheat, and engages escorts and/or prostitution services. Mr. Ginn says that as a married, devout Christian man and father, the statements about my being a male prostitute are particularly harmful and embarrassing to her and her family.

[206] Michael Montgomery is described as engaging escort and prostitution services, sexual assault and/or sexual harassment and engaging in criminal acts. The postings have caused him and his family significant embarrassment and mental anguish.

[207] Mira McDaniel is described as sexual or online predator, promiscuous, unethical, abusive, a fraud, liar and/or a cheat. She indicates that as a wife and mother to small children, the defamatory postings have caused me and my family significant mental anguish, distress and embarrassment.

[208] Some of the posts described Miriam Drummond a sexual predator, promiscuous, dishonest and immoral. She lives in a small community, and the attacks on her my integrity, ethics and personal character, have caused deep upset and embarrassment. She fears being used as an example internet safety at the school.

[209] Monica Plata Severyn is described as a former prostitute, escorts, and/or has performed sexual acts for money. The defamatory postings have also caused me significant mental anguish and distress.

[210] Mosfiqur (Mo) Rahman is unemployed and has been unable to secure new employment, despite his qualifications. He believes the defamatory postings have contributed to his inability to secure new employment. The defamatory postings have caused him significant distress, anguish and embarrassment.

[211] Both Nicole Ceranna and Nicole Palmer have similar posts. They are described as promiscuous, having committed sexual assault and sexual harassment, among other things. Both indicate the defamatory postings have caused them significant mental anguish and emotional trauma.

[212] Philip Cooksey is concerned for his family's safety, in light of events in his home community, where fake news and false internet postings caused a hostage situation at a local community restaurant. The defamatory postings have caused them significant mental anguish, distress and embarrassment.

[213] In the case of Robyn Matos, the defendant had been emailing her for years at the same time he was targeting her. She has experienced significant mental anguish, distress and embarrassment, and significant anxiety for her and her family's safety. The defendant has sent her emails linking the postings, causing additional distress.

[214] In the case of Ruba Borno, she has been accused of being a sexual predator, a fraud, sexual misconduct, among other things. The postings have caused her significant mental distress and anguish.

[215] Stacie Torello Wilk is the mother of a 15-year-old boy. Her son's friends regularly come over to her home. The postings have caused her significant mental distress and anguish, and have been particularly harmful because they suggest that she has sex with underage boys.

[216] The plaintiff Surya Panditi is an executive alleged to have committed criminal and sexual crimes. They have caused him and his family significant embarrassment and mental anguish. He has incurred significant resources and costs in an effort to identify the person making the postings and to have them removed from the Internet.

[217] The plaintiff Talie Dang-Lu believes the defamatory postings is impacting her ability to find new employment. She is a wife and mother to small children, the postings have caused her significant mental anguish, distress and embarrassment.

[218] While I find that the primary motive and intent of the defendant in publishing the defamatory content on the internet was calculated to cause injury and maximum damage and harm to each plaintiff, the case law establishes that the courts should avoid overcompensating by awarding both general and aggravated damages in defamation claims: *Hill* at para 188. No award

is justified for aggravated damages if the factors justifying are substantially the same ones used as the primary basis for establishing general damages: *Campbell v. Tremblay*, 2010 NLCA 62, at para 64. I have taken this into account in declining to award any amount for aggravated damages to the balance of the plaintiffs. The same evidence is relied upon to support both the claim for general and aggravated damages in the case of the following plaintiffs: Angela Barnes Coolidge, Bobby Nanda, Cassandra Long, Chad Alan Trout, Colin Kincaid, Felicia Glace, Heather Vickers, Javed Khan, Karthik Subramanian, Mary Catherine Hudson, Kathleen Noonan, Kirsten Hill, Maciej Kranz, Marc Aldrich, Mari Sullivan, Meera Ganesh, Michael Remza, Paula Cao, Ruchi Echevarria, and Tracy Clancy.

viii. Are the plaintiffs entitled to punitive damages?

[219] The plaintiffs collectively seek \$500,000.00 in punitive or exemplary damages in the amount of \$9,433.96 for each. The plaintiffs argue that the award of compensatory damages is insufficient “to penalize” the defendant. The plaintiffs argue that amount being claimed for each plaintiff is on the low end of the scale for these types of cases. The plaintiffs maintain that the defendant’s campaign of cyber-harassing and cyberbullying is malicious, reprehensible, and malevolent, giving rise to a substantial award of punitive damages. The plaintiffs submit that an award of punitive damages is necessary to send a message to the defendant and to similar “trolls” who hide behind the veil of the Internet, that - there are serious consequences to their reprehensible actions.

[220] While the court may take into consideration the financial means of the defendant in assessing punitive damages, this is an appropriate case to award-to-award punitive damages to each plaintiff for the reason below. Generally, punitive damages are awarded to punish the defendant and to make an example of the defendant in order to deter others from committing the same tort: see Linden, *Canadian Tort Law* (4th ed. 1988), at pp. 54-55. In *Vorvis v. Insurance Corporation of British Columbia*, 1989 CanLII 93 (SCC), [1989] 1 S.C.R. 1085, at pp. 1107-8.

[221] In *Hill*, the Supreme Court outlined two principles to be considered in determining whether to award punitive damages in a defamation case: first, the award should only be made in situations where the combined award of general and aggravated damages would be insufficient to achieve the goal of retribution, and deterrence of the defendant and others, and is in an amount no greater than necessary to accomplish the objectives of punitive damages. One of the factors mentioned in *Barrick* in reviewing whether punitive damages ought to have been awarded, was the mode of publication. At paragraph 62, the court noted: “The Internet is one of the most powerful tools of communications ever invented and, as the Collins text cited at the outset of these reasons indicates, it is ‘potentially a medium of virtually limitless international defamation’”. Like *Barrick*, by virtue of the publication of the defamatory materials about each plaintiff on the internet, is global, potentially exposing each plaintiff to “virtually limitless international defamation”. As was the case in *Hill*, (though a traditional defamation case), the defendant published the defamatory content “in a manner which ensured its widest possible dissemination in the most damaging manner imaginable”. For all, the ability to attract individuals or clients to their company or firm is at the

heart of their occupation. The outrageously vile and malevolent defamatory statements live on, on the Internet.

[222] Second, I find that the conduct of the defendant falls within the ambit of what the Supreme Court described in *Hill* at p. 1208 S.C.R as “misconduct is so malicious, oppressive and high-handed that it offends the court's sense of decency”. In awarding punitive damages, the court takes into account the not only the vile, malevolent, and defamatory statements, and the fact that they were published on the Internet, but also the types of websites that the defendant used to spew his hate. The March 2018 order of Archibald, which is 141 pages as a result an Appendix which identifies the various websites where the defamatory postings and the photos of the plaintiffs were published. The nature of the websites themselves which include, <http://pervertreport.com>, <http://predatorsregistry.com>, <http://www.badbizreport>; <http://slutreport.com>; <http://cheaters.website>, underline the high-handed, malicious, vindictive and reprehensible conduct of the defendant.

[223] The compensatory damages awarded to each of the plaintiff, are insufficient to compensate each of them or need there was for punishment and deterrence. Deterrence is said to be an important justification for punitive damages: *Hill*, at para. 120. As noted by the Supreme Court in *Hills*, at para.199:

Awards of general and aggravated damages alone might simply be regarded as a licence fee for continuing a character assassination. The protection of a person's reputation arising from the publication of false and injurious statements must be effective. The most effective means of protection will be supplied by the knowledge that fines in the form of punitive damages may be awarded in cases where the defendant's conduct is truly outrageous.

[224] The defendant deliberately, and calculatedly planned and carried out his cyber defamation and cyber harassment, posting on multiple websites, over a period of years. His motive was revenge because he had been rejected. He used the anonymity of the Internet to hide, and used different devices, and different public spots to conceal his identity. It took a court order to uncover his identity, and he deleted documents after the lawsuit started. The defendant systematically and callously violated the plaintiff's privacy and, at the same time, sought to damage their professional reputation and personal lives.

[225] Given the malicious, vindictive, high-handed, and reprehensible conduct of the defendant, this is an appropriate case for punitive damages to be awarded as a means by which the court may, in the words of Cory J. in *Hill*, supra, “expresses its outrage at the egregious conduct of the defendant”. As the aim of punitive damages is to punish the defendant rather than to compensate the plaintiffs (see, *Hill* at para.196), an award of \$9,000 for punitive damages awarded to each plaintiff accomplishes objectives of punishment and deterrence to both the defendant and others.

ix. Are the plaintiffs entitled to permanent injunctive or mandatory relief?

[226] The plaintiffs seek an order for a permanent injunctive relief enjoining the defendant from future publication of defamatory content and a mandatory permanent order requiring the defendant to assist the plaintiffs in removing the existing content from the internet. The plaintiffs rely on *Caplan v Atas*, *Caplan v. Atas*, 2021 ONSC 670. In *Atas*, Corbett J., granted an order for injunctive relief as the defendant had made an assignment into bankruptcy the day before the motion for summary judgment. The plaintiffs withdrew their claim for monetary damages and an award of damages was not available as a remedy.

[227] The defendant argues that this relief was already dealt with in my liability decision and the plaintiffs are foreclosed from relitigating the issue. The defendant points to paragraphs 142 to 147 of my liability decision. The defendant also argues that the issue of injunctive relief has been litigated at various stages including before Archibald J. and Pattillo J., including the relief sought to have the defendant assist the plaintiffs in removing the defamatory content from the internet. Aside from the procedural defences raised by the defendant, the defendant argues that it would be outrageous and unconstitutional to ask him to take down the defamatory and submits that there is no precedence for such an order.

[228] I start with the nature of the summary judgment motion that was before me. The plaintiffs' Notice of Motion had sought judgment with respect to the relief sought in the statement of claim. My liability decision only dealt with the ancillary relief sought by the non-parties, that is, the plaintiffs' lawyers, investigators and experts, some of whom were sued by the defendant, and also were subject to defamatory postings on the same websites. I identified, as one of the issues, the "ancillary relief" sought by the plaintiffs. The relevant portion of the liability decision reads:

[143] The plaintiffs are seeking ancillary relief under rule 20.04(7) of the Rules, namely, a permanent injunction prohibiting Mr. Farid from publishing any defamatory words or statements against the lawyers, agents, investigators, experts and witnesses for the plaintiffs in this action.

[144] The plaintiffs are also seeking a mandatory order requiring Mr. Farid to assist the plaintiffs in obtaining the removal from the internet of any defamatory comments directed against the plaintiffs' lawyers, investigators, experts and/or witnesses, published because of this action.

[147] The relief sought by the plaintiffs in paragraphs 2 and 3 of the Notice of Motion are dismissed, without prejudice to the plaintiffs renewing a motion for contempt.

[148] The relief sought by the plaintiffs in paragraphs 4 and 5 is dismissed, without prejudice to the plaintiffs renewing the motion.

[229] The relief sought in paragraphs 2, 3, 4 and 5 of the Notice of Motion, all related to injunctive relief and other ancillary relief being sought by the non-parties. I did not dismiss the motion with respect to all the relief sought in the statement of claim. Paragraph 1 of the Notice of motion sought judgment "Summary Judgment in favour of the plaintiffs for the relief claimed in the Statement of Claim".

[230] At paragraph 1 of the Amended Statement of Claim, the plaintiffs seek the following relief:

- a. a permanent and mandatory order causing the Defendant to immediately remove, or cause to be removed, from the Internet any and all of the Defamatory Content and Defamatory Postings;
- b. a permanent injunction restraining the Defendant and/or his agents, directly or indirectly, from publishing the Defamatory Content, any expression to the same effect, and any words, statements and expressions that are defamatory of the Plaintiffs;
- c. a permanent and mandatory order requiring the Defendant to permanently remove the Defamatory Content from any electronic databases controlled by him, wherever they are accessible;
- d. a permanent and mandatory order requiring the Defendant to assign and grant in writing to the Plaintiffs all rights, title and/or interest he owns in the copyright of the Defamatory Content and the Defamatory Postings, so that the Plaintiffs may, at their sole discretion, take any legal proceedings they consider necessary to restrain the continued republication of the Defamatory Content and Defamatory Postings by third parties on the Internet or elsewhere;
- a. a permanent and mandatory order requiring the Defendant to assist the Plaintiffs in obtaining the removal of electronic copies of the Defamatory Content and the Defamatory Postings:
 - i. from Internet search engine caches;
 - ii. from any other electronic databases and servers where they are accessible; and
 - iii. from other Internet websites operated by third parties, whether or not those third parties were originally expressly or impliedly authorized by the Defendant to republish the aforesaid Defamatory Content;

[231] As for Archibald J. and Pattillo J., Archibald J. granted the initial interim injunctive order which was subsequently extended by Pattillo J. I disagree that either of them dealt with the remedies, now sought, as part of the summary judgment motion. In fact, as noted above, Pattillo J. thought aspects of the plaintiffs' motion was premature (an order requiring the defendant to remove the defamatory material) as it would require the defendant to admit authorship (liability), and found the relief sought that "Farid assist the plaintiffs" in removing such material "too vague and unenforceable": *Clancy v. Farid*, 2018 ONSC 7482, at para. 32.

[232] Counsel for the plaintiffs submits that she has a form of the judgment used in the *Atas* case as a precedent. While I accept the plaintiffs' argument that it is open to the court to grant the permanent injunction and aspect of the mandatory order, I think it would be unfair to the defendant to do so based on precedent without giving him an opportunity to make submissions on the

proposed terms. There is another valid argument raised by the defendant, and that is the constitutionality of such an order. Any injunctive order or mandatory order cannot be too broad as to overshoot the march and trench on the defendant’s right to freedom of expression.

[233] As liability is established, I am inclined to grant the order requested that the defendant remove the defamatory posts from the Internet. This outcome was also contemplated by Pattillo J. who indicated it “is only appropriate as a final order following a trial of the issue”. The granting of a permanent injunction in defamation action is an exceptional and extraordinary remedy, to be made in the clearest of cases. Contrary to the defendant’s argument, it is not without precedent: see *Canada Metal Co. v. Canadian Broadcasting Corp.* (1975), 1975 CanLII 661 (ON SC), 7 O.R. (2d) 261, 55 D.L.R. (3d) 42 at p. 261; *Astley v. Verdun*, 2011 ONSC 3651 at para. 21; *Hunter Dickinson Inc. v. Butler*, 2010 BCSC 939 at paras. 75-79; *Griffin v. Sullivan*, 2008 BCSC 827 at paras. 119-127; *Newman v. Halstead*, 2006 BCSC 65 at paras. 297-301. I would add to the list, if only by analogy, *Atas*, which is an internet harassment case.

[234] The defendant has shown a lack of remorse and has targeted the plaintiffs’ lawyer and witnesses, and continued, even in the materials before the court, to make disparaging comments about the plaintiffs and their lawyer. The defamatory statements which are basis of this action, have been on the Internet for years, and likely will be there forever even if the plaintiffs successful manage to have them de-indexed from search engines. The defendant’s dissemination of the vile defamatory postings was calculated and sustained, spread over multiple websites for most of the plaintiffs. In my view, there is a real likelihood that the defendant will continue to publish defamatory statements despite any finding I may make. Judging from statements made by the defendant himself, with the specter of bankruptcy raised, and the defendant has claimed, without evidence before the court, that he is impecunious, there is a real possibility that the plaintiffs will not receive any compensation or that an award of damages will be unenforceable. The court has granted the order sought by the plaintiff in similar circumstances: see *Astley v. Verdun*, 2011 ONSC 3651 at para. 21; *Hunter Dickinson Inc. v. Butler*, 2010 BCSC 939 at paras. 75-79; *Griffin v. Sullivan*, 2008 BCSC 827 at paras. 119-127; *Newman v. Halstead*, 2006 BCSC 65 at paras. 297-301. There should be some specificity to the terms of the order so that it is clear what statements are covered a breach of which will result in the plaintiffs seeking further relief from the court.

[235] As for the requirement that the defendant “assist” the plaintiffs in removing the defamatory content, I agree with Pattillo J. that the relief is too vague, and I agree without be difficult to enforce.

IX. Disposition

[236] The compensatory damages (general, and aggravated, if any) as well as the punitive damages awarded to each plaintiff is summarized in the chart below.

Plaintiff	General Damages	Aggravated Damages	Punitive Damages
1.Aengus Linehan	\$90,000	\$1,500	\$9,000

2. Alvie Bert Kraatz III	\$90,000	\$1,500	\$9,000
3. Angela Barnes Coolidge	\$50,000		\$9,000
4. Bobby Nanda	\$80,000		\$9,000
5. Brent Schreckengost	\$90,000	\$1,500	\$9,000
6. Cassandra Long	\$85,000		\$9,000
7. Chad Alan Trout	\$80,000	\$1,500	\$9,000
8. Cheyenne Deverna	\$55,000	\$1,500	\$9,000
9. Christine Feng	\$75,000	\$1,500	\$9,000
10. Colin Kincaid	\$55,000		\$9,000
11. Dan Grossman	\$90,000	\$1,500	\$9,000
12. Daniel Christopher Koloski	\$85,000	\$1,500	\$9,000
13. David Lynn	\$85,000	\$1,500	\$9,000
14. Fahrin Jaffer	\$90,000	\$1,500	\$9,000
15. Felicia Glace	\$50,000		\$9,000
16. Heather Vickers	\$50,000		\$9,000
17. Hilton Romanski	\$95,000	\$1,500	\$9,000
18 Jacques Conand	\$90,000	\$1,500	\$9,000
19. Jamal Raza	\$95,000	\$1,500	\$9,000
20. James Brian Doran	\$70,000	\$1,500	\$9,000
21. Javed Khan	\$95,000		\$9,000
22. Karthik Subramanian	\$60,000		\$9,000
23. Kathleen Noonan	\$75,000		\$9,000
24. Kevan Blanco	\$80,000	\$1,500	\$9,000
25. Kirsten Hill	\$80,000		\$9,000
26. Laura Leigh Schneider	\$85,000	\$1,500	\$9,000
27. Maciej Kranz	\$90,000		\$9,000
28. Marc Aldrich	\$90,000		\$9,000
29. Mari Sullivan	\$55,000		\$9,000
30. Marianna Gurovich	\$70,000	\$1,500	\$9,000
31. Marjory Remy	\$85,000	\$1,500	\$9,000
32. Mary Catherine Hudson	\$85,000		\$9,000
33. Mary Celeste Didone	\$85,000	\$1,500	\$9,000
34. Meera Ganesh	\$50,000		\$9,000

35. Michael Ginn	\$85,000	\$1,500	\$9,000
36. Michael Montgomery	\$80,000	\$1,500	\$9,000
37. Michael Remza	\$85,000		\$9,000
38. Mira McDaniel	\$85,000	\$1,500	\$9,000
39. Miriam Drummond	\$85,000	\$1,500	\$9,000
40. Monca Severyn	\$80,000	\$1,500	\$9,000
41. Mosfiqar Rahman	\$90,000	\$1,500	\$9,000
42. Nicole Ceranna	\$90,000	\$1,500	\$9,000
43. Nicole Palmer	\$90,000	\$1,500	\$9,000
44. Paula Cao	\$85,000		\$9,000
45. Philip Cooksey	\$90,000	\$1,500	\$9,000
46. Robyn Matos/Holland	\$85,000	\$1,500	\$9,000
47. Ruba Borno	\$85,000	\$1,500	\$9,000
48. Ruchi Echevarria	\$65,000		\$9,000
49. Shauna Daly	\$80,000	\$1,500	\$9,000
50. Stacie Torello Wilk	\$85,000	\$1,500	\$9,000
51. Surya Panditi	\$90,000	\$1,500	\$9,000
52. Talie Dang-Lu	\$90,000	\$1,500	\$9,000
53. Tracy Clancy	\$85,000		\$9,000

[237] I am inclined to grant the order sought by the plaintiff requiring the defendant to take such steps as is necessary to remove the defamatory content from the Internet.

[238] The defendant is enjoined from posting further defamatory statements or comments of the nature and kind which were the subject of this litigation on the Internet. The terms of such an order must be clear to ensure the defendant is on notice of the boundaries and at the same time ensuring that it is not so overbroad that it would entrench on the defendant's right to free speech. The defendant, who is university educated, is well aware of the parameters, and the terms of the draft order may be canvassed with the parties.

[239] I decline to make any order requiring the defendant to assist the plaintiff in removing the content as such a term is too vague and likely unenforceable. the order requested that the defendant remove the defamatory posts from the Internet.

X. Costs

[240] The plaintiffs may submit their costs submissions within fifteen days of the date of this decision. The defendant may submit his responding costs submissions within fifteen days thereafter.



Justice A.P. Ramsay

Released: June 27, 2023

CITATION: Clancy v. Farid, 2023 ONSC 2750

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

TRACY CLANCY, BRENT SCHRECKENGOST,
MONICA PLATA, FAHRIN JAFFER, JAMAL RAZA,
JACQUES CONAND, MOSFIQUR (MO) RAHMAN,
MIRA MCDANIEL, TALIE DANG-LU, NICOLE
CERANNA, PHILIP COOKSEY, MARIANNA
GUROVICH, DANIEL CHRISTOPHER KOLOSKI,
ALVIE BERT KRAATZ III, MICHAEL
MONTGOMERY, NICOLE PALMER, MARY
CELESTE (MC) DIDONE, DAVID LYNN, SURYA
PANDITI, LAURA LEIGH SCHNEIDER, MARI
SULLIVAN, MEERA GANESH, MICHAEL REMZA,
JAVED KHAN, MARJORY REMY, CASSANDRA
LONG, KIRSTEN HILL, RUBA BORNO, PAULA
CAO, BOBBY NANDA, RUCHI ECHEVARRIA,
MICHAEL GINN, FELICIA GLACE, ROBYN
MATOS/HOLLAND, ANGELA BARNES
COOLIDGE, COLIN KINCAID, MACIEJ KRANZ,
MARC ALDRICH, KARTHIK SUBRAMANIAN,
HEATHER VICKERS, STACIE TORELLO WILK,
MARY CATHERINE HUDSON, CHAD ALAN
TROUT, KATHLEEN NOONAN, SHAUNA DALY,
KEVAN BLANCO, MIRIAM DRUMMOND,
CHEYENNE DEVERNA, CHRISTINE FENG, DAN
GROSSMAN, AENGUS LINEHAN, HILTON
ROMANSKI, JAMES BRIAN DORAN

Plaintiffs

TANVIR FARID a.k.a. TANVIR ISLAM

Defendant

REASONS FOR JUDGMENT

Justice A.P. Ramsay