

Court file no.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

JONATHAN SOMMER

Plaintiff

and

JOHN WERNER GOLDI, JOAN CATHERINE GOLDI and GOLDI PRODUCTIONS LTD.

Defendants

(Court seal)

STATEMENT OF CLAIM

TO THE DEFENDANTS

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

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

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

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

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

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$2500 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date : February 13, 2014

Issued
by

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Local registrar

Address of court office:
393 University Avenue
10th Floor
Toronto, ON M5G 1E6

TO:

JOHN WERNER GOLDI
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: jgoldi@goldiproductions.com
Tel: 905.855.1510

AND TO:

JOAN CATHERINE GOLDI
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: joan.goldi@goldiproductions.com
Tel: 905.855.1510

AND TO:

GOLDI PRODUCTIONS LTD.
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: jgoldi@goldiproductions.com; joan.goldi@goldiproductions.com;
info@goldiproductions.com
Tel: 905.855.1510

1. The plaintiff claims as against all of the defendants:
 - (a) General damages for defamation in the amount of \$1,000,000;
 - (b) Special damages in an amount to be provided prior to trial;
 - (c) Punitive or exemplary damages in the amount of \$250,000;
 - (d) Aggravated damages in the amount of \$250,000;
 - (e) A permanent injunction enjoining the defendants and each of them from making any statements about the plaintiff or, in the alternative, from making any disparaging statements about the plaintiff;
 - (f) A permanent injunction prohibiting the defendants from attending as audience in relation to any court appearances of the plaintiff;
 - (g) An interim order requiring the production from the corporate entity operating the “sfleishman@sympatico.ca” email address to disclose the name, address and other particulars of its user;
 - (h) pre-judgment and post-judgment interest on the sums claimed in subparagraphs (a),(b), (c) and (d) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (i) costs on a full indemnity basis, inclusive of HST; and
 - (j) such further and other relief as to this Honourable Court seems just.

THE PARTIES

2. The plaintiff, Jonathan Sommer, is an individual residing in the Province of Quebec. The plaintiff is a full-time practicing lawyer and is a member of the Ontario and Quebec Bars.
3. The defendant John Goldi is an individual residing in the City of Mississauga, in the Province of Ontario.
4. The defendant Joan Goldi is an individual residing in the City of Mississauga, in the Province of Ontario.
5. The defendant Goldi Productions Ltd. Is an Ontario corporation, having its principal place of business in the individual defendants' home in the City of Mississauga, in the Province of Ontario. It is the agent of the two individual defendants and has no distinct legal existence except superficially.

BACKGROUND

6. The plaintiff runs a law practice that serves clients in both Ontario and Quebec, and he operates as a sort of "virtual" lawyer for most of his clients, meaning that although his clients are located in various locations, the plaintiff performs his work from an office in Quebec. Because of this, his law practice is particularly dependent upon his maintaining a positive reputation on the internet. He is currently in his 15th year of practice.
7. Up until the publication of the defamatory statements by the defendants, the plaintiff enjoyed an excellent, and hard-earned, personal and professional reputation.

8. The plaintiff's law practice involves a number of areas of law, but the dominant area is as a plaintiff's lawyer in art fraud cases. These cases typically involve providing advice and/or representation to clients who claim to have been the victims of art fraud.
9. Several cases in which the plaintiff is, or has been counsel, involve the art of the famous First Nations artist Norval Morrisseau. Each of the public record cases for which the plaintiff is, or was, counsel, involves a claim by a purchaser of what is represented to be Norval Morrisseau art against the vendor of same, the allegations being that such vendors have sold the plaintiff's clients forged artworks.
10. As of the date of this Statement of Claim, the plaintiff is counsel of record in two active lawsuits against vendors of allegedly-forged artworks, and just completed litigation in a third action. These lawsuits have attracted considerable media attention, especially as a result of the fact that two of the plaintiff's current clients are celebrities, namely Kevin Hearn of the Barenaked Ladies rock group, and John McDermott, the famed vocal tenor.
11. The defendants are owners and vendors of various Norval Morrisseau art works, some of which appear to be of the species of such works that is questioned in the various lawsuits brought by the plaintiff's clients. Accordingly, the defendants have a significant financial interest in ensuring that the plaintiff's clients are unsuccessful in their lawsuits.
12. The defendants own and operate several websites, which include, inter alia:
 - (a) themorrisseauhoaxexposedblog.com ("TMHEB Website");
 - (b) morrisseauhoaxexposedblog.com ("MHEB Website");
 - (c) morrisseau-hoax.com ("MH Website");
 - (d) goldproductions.com ("GP Website");
 - (e) heritageartandantiques.com ("HAA Website").(collectively the "Websites")

13. The primary focus of the TMHEB, MHEB and MH websites (the “Conspiracy Websites”) is to communicate the defendants’ writings about an enormous conspiracy they allege exists in the international art market for the works of Morrisseau. According to the Conspiracy Websites, this conspiracy, which is sometimes called the “Aldergrove Conspiracy” or the “Morrisseau Hoax”, is a conspiracy (the “Conspiracy”) perpetrated by numerous people, including various lawyers, Canadian university professors, professional journalists, art institution officials, art dealers, auctioneers, artists and others, to control the art market for Morrisseau’s work to the ultimate benefit of his former principal dealer, Donald Robinson of Kinsman Robinson Galleries in Toronto.
14. According to the defendants’ statements on the Conspiracy Websites, the people involved in the Conspiracy are perpetrating a “hoax” on the world by alleging that there exist significant numbers of fake Morrisseau paintings on the market, many of which are signed, titled and dated in English on their versos with what is known as black drybrush paint (“BDP”).
15. The Conspiracy Websites are targeted at, and are found by, persons searching on the internet for information about Norval Morrisseau, the Morrisseau fraud controversy, and the plaintiff.
16. The plaintiff is not a member of the Conspiracy alleged by the defendants, and no such Conspiracy exists.
17. The defendants are, as is indicated above, owners and vendors of numerous BDP Morrisseau paintings. They operate an online gallery on the HAAA Website, which advertises these paintings for sale to the public.
18. On the Conspiracy Websites, the defendants falsely claim to be a museum “curator”, “director of research”, investigative journalists and professional historians, and generally attempt to give the public the impression that they are

- credible, trustworthy professional art institution administrators, academics and/or experts, when such is not the case. Nowhere on the Conspiracy Websites do they disclose their significant financial interest in the issues discussed.
19. Much of what the defendants have written on the Conspiracy Sites is in reference to a Toronto Small Claims Court action, *Hatfield et al v Artworld of Sherway et al* (“Hatfield”), for which the plaintiff was the plaintiff’s counsel. The defendants attended the Hatfield trial, and then wrote and published false accounts of the events that transpired there.
20. The “articles” appearing on the Conspiracy Websites are extremely disparaging, false and malicious attacks on numerous people including the plaintiff. In preparing the writings and photographs the defendants post on the Conspiracy Websites related to the plaintiff and the Morrisseau-fakes issue, the defendants have never interviewed or provided any opportunity for comment or response to the plaintiff. They also have never followed proper and ethical journalistic practices in preparing and publishing such content.
21. The Conspiracy Websites have been linked to by various other websites, including by the website of another collector and vendor of BDP Morrisseau paintings, Mr. Ugo Matulic, and by the Toronto Star newspaper, in an article published on the internet on February 4, 2014. These links have further disseminated the Defamatory Statements, and increased their apparent credibility with people searching the internet for information about the plaintiff, Norval Morrisseau or the Morrisseau fakes controversy.

THE DEFAMATORY STATEMENTS

22. The defendants have stated, on the Websites and elsewhere, that the plaintiff is a key member of the Conspiracy. They then maliciously and, with the predominant purpose of damaging the plaintiff’s reputation, committed, *inter alia*, the following acts of defamation (the “Defamatory Statements”):

(a) The defendants published the website content attached to this Statement of Claim as Schedule “A”, in which content appear various defamatory and false statements about the plaintiff, which statements are underlined and highlighted therein. The chronology of these Defamatory Statements, and the plaintiff’s responses to them, is as follows:

- (1) On April 21, 2013, the plaintiff discovered the defendants’ article identified as “Judge Paul J Martial on Sommer’s Case”;
- (2) On April 23, 2013, the plaintiff discovered the defendants’ article identified as “Judge Paul Martial 1: on Margaret Hatfield’s Case”;
- (3) On April 28, 2013, the plaintiff notified the defendants of the defamatory nature of the articles referred to in (1) and (2) above, and demanded that the defendants cease and desist, retract and apologize;
- (4) On May 28, 2013, the plaintiff notified the defendants that although some of the defamatory material had been removed, some still remained on the Websites, and repeated the April 28, 2013 demands;
- (5) On November 19, 2013, the plaintiff discovered the defendants’ article identified as “A 179 Page Special Report”;
- (6) On December 2, 2013, the plaintiff notified the defendants that although some of the defamatory material had been removed, some still remained on the Websites, and new material was being published, and repeated the April 28, 2013 and May 28, 2013 demands;
- (7) On December 21, 2013, the plaintiff discovered the defendants’ article identified as “In Her Own Words: Madame Justice Sanderson Speaks”;
- (8) On February 13, 2014, the plaintiff discovered the defendants’ article identified as “KRG ‘Creative Provenance’ – Part 2”;
- (9) On February 13, 2014, the plaintiff discovered the publication of additional defamatory statements by the defendants on the MHEB Website;

- (b) The plaintiff also became aware, on December 13, 2013, that the defendants, using the alias “Sam Fleishman” and the email address “sfleishman@sympatico.ca”, sent to the plaintiff’s client the emails attached to this Statement of Claim as Schedule “B”, in which emails appear various defamatory and false statements about the plaintiff, which statements are underlined and highlighted therein;
- (c) The defendants communicated, and continue to communicate, defamatory statements about the plaintiff to additional individuals, by email or through the internet, by phone calls and in person, which communications and individuals are known to the defendants.

(collectively, the “Defamatory Statements”)

23. The Defamatory Statements were understood by those hearing or reading them in their common meanings, which are, generally speaking, that the plaintiff:

- (a) Is incompetent and unprofessional;
- (b) Does not understand the law;
- (c) Practices law in a negligent manner;
- (d) Intentionally deceives his clients;
- (e) Intentionally deceives the courts;
- (f) Has no respect for the administration of justice;
- (g) Fraudulently deprives his clients of their money;
- (h) Knowingly presents forged evidence before the courts;
- (i) Takes advantage of the elderly;
- (j) Suffers from mental illness involving delusion and disorientation;
- (k) Fraudulently manipulates the press in order to deceive the public;
- (l) Intentionally lies about and verbally attacks the courts;
- (m) Is known to the public to be incompetent as a lawyer;
- (n) Intentionally misstates the law to his clients and the press;
- (o) Intentionally wastes client money and court time;

- (p) Brings frivolous and vexatious court proceedings;
- (q) Attempts to defame and disparage witnesses for no reason;
- (r) Overcharges his clients;
- (s) Presents irrelevant material in court;
- (t) Is the one personally making the claims that his clients are making;
- (u) Pretends to misunderstand the courts for the purpose of financial gain;
- (v) Knows nothing about Norval Morrisseau beyond what was said in the Hatfield case, or anything about fine art and antiques;
- (w) Is the world's worst expert on Morrisseau;
- (x) Did not read the Hatfield decision before commenting on it to the press;
- (y) Makes absurd and ridiculous demands of witnesses;
- (z) Ought to be the subject of disciplinary proceedings;
- (aa) Is a liar and a fraud;
- (bb) Is a member of a large, malicious and illegal conspiracy to control the world market for Morrisseau paintings;
- (cc) Earned \$40,000 from the Hatfield trial;
- (dd) Is the perpetrator of a massive hoax;
- (ee) Fraudulently conned Kevin Hearn into being his client;
- (ff) Fraudulently conned John McDermott into being his client;
- (gg) Is, or is similar to, a mafia "consigliere" (a criminal and mafia legal advisor);
- (hh) Is, or is similar to, a terrorist who participated in causing the death of at least three people;
- (ii) Takes directions not from his clients, but from an unscrupulous conspirator;
- (ii) Is, generally, a person of low moral character who engages in immoral and/or criminal activities against others and, in particular, against his clients, the courts and the general public.

24. As a consequence of the Defamatory Statements, the plaintiff has suffered irreparable harm to his personal reputation, as well as significant humiliation and

embarrassment. He has also suffered stress, sleeplessness and other symptoms of long-term general emotional upset.

25. The plaintiff states that his reputation as a lawyer, and especially as a “virtual” lawyer, is particularly vulnerable to the defendants’ attacks, partly because of his dependence on his online reputation, as well as because it is the nature of the legal profession that trustworthiness is the most critical element in prospective clients’ decisions to hire a lawyer.
26. The plaintiff states that the Defamatory Statements were premeditated, malicious and vindictive or, in the alternative, were published or stated by the defendants with reckless disregard for the injury and damages such statements would reasonably be expected to cause, and did in fact cause, to the plaintiff’s reputation and to his personal sense of well-being.
27. The plaintiff states that the defendants published the Defamatory Statements knowing such statements were false, or with recklessness as to their truth or falsehood, and in bad faith.
28. The plaintiff states that the defendants published the Defamatory Statements with the malicious intention of harming the plaintiff’s reputation and well-being so that the plaintiff would not be able to continue to practice law, attract new clients, keep his existing clients, or continue to represent his existing clients in the litigation connected with the issue of fraudulent Norval Morrisseau paintings.
29. The plaintiff has demanded that the defendants cease and desist from publishing the Defamatory Statements or other defamatory statements, but the defendants have intentionally and maliciously continued their campaign of defamation against the plaintiff. The defendants have also failed and/or refused to remove the Defamatory Statements from the Websites, and failed and/or refused to publish a

retraction or apology to the plaintiff or to any of the persons to whom the Defamatory Statements were communicated.

THE DAMAGES CLAIMED

30. The plaintiff claims general compensatory damages for the past, present and future damage to the reputation, livelihood, standing in the community, dignity, self-esteem and feelings of well-being sustained by the plaintiff as a result of the Defamatory Statements caused by the defendant.
31. The plaintiff claims special damages for the specific losses caused by the defendants' Defamatory Statements, in an amount to be provided prior to trial.
32. The plaintiff claims punitive or exemplary damages based on the malicious, high-handed and oppressive unrelenting and unrepentant serial nature of the defendants' defamatory conduct towards the plaintiff, and the clear attempts by the defendants to disseminate the Defamatory Statements as widely as possible for maximum destructive effect.
33. The plaintiff claims aggravated damages as a result of the increased and profound harm experienced by the plaintiff as a result of the defendants' unrelenting and unrepentant harsh, vindictive and malicious campaign of defamation against him, in which the central objective of the defendants' conduct has been to destroy the plaintiff's reputation and professional relationships – relationships which are at the core of the plaintiff's sense of self and identity, and to harm his sense of emotional well-being.

The plaintiff proposes that this action be tried in Toronto.

Christopher Sweeney
(LSUC#53864F)
11 Empire Ave.
Toronto, ON M4M 2L3
Tel: 416-834-2251
Fax: 647-477-6891

Lawyer for the Plaintiff

TO :

JOHN GOLDI
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: jgoldi@goldiproductions.com
Tel: 905.855.1510

AND TO:

JOAN GOLDI
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: joan.goldi@goldiproductions.com
Tel: 905.855.1510

AND TO:

GOLDI PRODUCTIONS LTD.
1409 Malibou Terrace
Mississauga, Ontario L5J 4B9
Email: jgoldi@goldiproductions.com; joan.goldi@goldiproductions.com;
info@goldiproductions.com

Tel: 905.855.1510

JONATHAN SOMMER **and** **JOHN GOLDI ET AL**
(plaintiff) **(defendant)**

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**CHRISTOPHER SWEENEY
(LSUC#53864F)
11 Empire Ave.
Toronto, ON M4M 2L3**

**Tel: 416-834-2251
Fax: 647-477-6891**

Lawyer for the Plaintiff