

Court of King's Bench of Alberta

Citation: MHCare Medical Corp. v Pike, 2025 ABKB 135

Date: 20250306
Docket: 2403 24935
Registry: Edmonton

Between:

MHCare Medical Corporation o/a MHCare Medical and Sam Mraiche

Plaintiffs/Applicants

- and -

Nathan Pike and Breakdown Media

Defendants/Respondents

**Reasons for Decision
of the
Honourable Justice Bonnie L. Bokenfohr**

These reasons have been edited from what was delivered orally for syntax, clarity, and to include references. The substance of the decision has not changed.

[1] On February 14, 2025, MHCare Medical Corporation (MHCare) and Sam Mraiche (the Applicants) brought an emergency application seeking an order enjoining Nathan Pike and Breakdown Media (the Respondents) from posting or reposting any words, audio, and/or visual content in any matter relating to MHCare Medical Corporation and Sam Mraiche, their operators, employees, and/or contractors, whether directly or indirectly. Put another way, MHCare Medical Corporation and Mr. Mraiche sought an interlocutory injunction prohibiting the Mr. Pike and Breakdown Media from publishing anything about the Applicants. This application was brought in the context of an ongoing defamation action brought by MHCare

Medical Corporation and Mr. Mraiche against Nathan Pike and Breakdown Media. That action was filed in December 2024 and is in its early stages.

[2] Mr. Mraiche is the Director and 100% shareholder of MHCare.

[3] Mr. Nathan Pike is an individual who publishes a podcast and website called Breakdown Media.

[4] The injunction was granted on February 14, 2025, with a review date of February 28, 2025, at a half day special chambers application.

[5] I did not hear the February 14 application. I did hear the review on February 28 which was last Friday. Whether the application should have been heard on an emergency basis and whether that application should have been granted on February 14 are not issues for me.

[6] Before me is the application of the Applicants as if made in the first instance. It is a hearing *de novo*. What happened on February 14 including representations of the parties and submissions are not relevant to the application before me.

[7] I heard submissions on Friday afternoon and put the matter over to Monday morning to give my decision. This is my decision.

[8] The application for an interlocutory injunction is dismissed for the following reasons.

[9] Interlocutory injunctions restraining speech are only granted in exceptional circumstances. An interlocutory injunction will not be granted where the defendant respondent indicates an intention to justify the statements complained of unless the applicant plaintiff is able to satisfy the court that the words are both clearly defamatory and impossible to justify.

[10] The test for an interlocutory injunction in the context of a claim of defamation was recently review in *Peterson v McNallie* 2024 ABKB 127 (*Peterson*) citing numerous authorities including *Peyrow v Kaklin* 2022 ABKB 823 (*Peyrow*).

[11] First, the applicant must establish, on the record, that defamation occurred (the impugned statements are “clearly defamatory”):

- the words were published
- the words referred to the applicant
- the words would lower the applicant’s reputation in the eyes of a reasonable person

[12] Second, if the respondent has expressed the intention to raise defences, the applicant must establish that there is no sustainable defence.

[13] In this matter, if the statements are defamatory, which the Respondent does not concede, the Respondent has clearly expressed the intention to raise the defences of justification, fair comment, and responsible communication in the public interest.

[14] As I stated at the beginning, the granting of an interlocutory injunction in a defamation action before trial and before any findings with respect to the defences will only occur in exceptional circumstances. The threshold on the applicant is high as it relates to establishing that the respondent does not have any sustainable defence. The threshold has been described in different ways including that the applicant must demonstrate that the defences “will inevitably

fail” and it is “beyond doubt” that any defence raised by the respondent is not sustainable and the defence is obviously impossible to justify.

[15] As noted by Justice Renke in *Peyrow* and Justice Feasby in *Peterson* the threshold is high because of the need to protect freedom of expression.

The high threshold for obtaining an interlocutory injunction to prevent defamatory statements is an example of how the common law protected freedom of expression prior to the adoption of the *Charter*, and how it continues to protect freedom of expression today.

Peterson at para 5.

[16] That said, while the test to obtain an injunction to restrict future free speech is high, it is not insurmountable or impossible to meet. All of the circumstances of the case must be considered to decide if an applicant’s case is strong enough to warrant an interlocutory injunction.

[17] Applying the test to this case, the Applicants have identified two groups of alleged defamatory statements:

1. Statements about children’s acetaminophen that MHCare facilitated the import and distribution of with Alberta Health Services (AHS) during the pandemic; and
2. Statements that suggest that MHCare and Mr. Mraiche have somehow inappropriately influenced contracting and procurement practices or processes to their own benefit.

[18] I will first address the alleged defamatory statements about impropriety with respect to contracting and procurement.

[19] The Applicants have identified 18 statements that they allege are defamatory that was either original content created by the Respondent, or third party content that was reposted by the Respondent, between July 16, 2024 and February 11, 2025. I am not going to go through every statement. For the purpose of this decision, I am going to assume, without finding, that the Applicant has established that the impugned statements are defamatory.

[20] I find, however, that the Applicant has not established that the defences of justification, fair comment, or responsible communication in the public interest will inevitably fail or that it is beyond doubt that any defence raised by the Respondent is not sustainable. The issue of impropriety with respect to contracting and procurement, including with the Applicants, remains a live issue that is under active review by government and the Auditor General. It is impossible to find at this point that the Respondent’s defences in the defamation action will inevitably fail.

[21] I will next address the alleged defamatory statements that relate to the children’s acetaminophen that was imported from Turkey. The Applicants have identified 14 statements that they allege are defamatory that was either original content created by the Respondent, or third party content that was reposted by the Respondent, between January 15, 2024 and February 9, 2025. The statements refer to the product as “Tylenol” or “Turkish Tylenol” and state that the product “actually put kids at risk” and “was dangerous to kids”. This is both original content and reposted content.

[22] I find that the Applicant has established that the statements are defamatory. I have reviewed the statements both individually and together as a whole. The product is stated to “actually put kids at risk” and be “dangerous to kids”. The product was given the nickname “Turkish Tylenol” and in the same statement said to put children at risk and be dangerous to children. The phrase “Turkish Tylenol” or “Tylenol” thereafter became shorthand for a product that was dangerous and put children at risk. The product was associated to the Applicants. The statements together create a narrative that the Applicants, both corporate and individual, by importing the product, put children at risk. The words would lower the Applicants’ reputation in the eyes of a reasonable person. The words refer to the Applicants and the words were published.

[23] The Respondents rely on the same defences of justification, fair comment, and responsible communication in the public interest. The Applicants argue that they have demonstrated that it is beyond doubt that these defences will fail. The Respondent disagrees. What is interesting is that both the Applicants and Respondents rely on the same documents from AHS and Blue Cross to support their position. The Respondent’s evidence as set out in his affidavit is that the publicly available facts all support that the acetaminophen imported from Turkey was a health risk to children: “I have not seen any reporting or medical opinion that offered contrary views. That reporting has continued unabated” (Affidavit of Nathan Pike sworn February 21, 2025 at para. 22).

[24] The Applicants assert that the same documents that the Respondent relies on establish that the product was not dangerous or a health risk to children.

[25] The AHS and Blue Cross documents together demonstrate that the imported acetaminophen was a different concentration resulting in a change to the dosage and that the product had a higher viscosity than the acetaminophen that had been commonly used by families and health practitioners prior to the pandemic. These differences in concentration, dosing, and viscosity required education and counselling to families on safe and correct usage requiring the product to be kept behind the counter at the pharmacy. This would have also necessarily required additional training and care when used by health care practitioners given the differences as compared to the product that they were accustomed to using. The Respondent argues that even if the product was not dangerous when used properly, the differences between the imported product and the commonly used product put children at risk and were dangerous. According to the Respondent, the defences of justification, fair comment, and responsible communication in the public interest therefore apply.

[26] Whether the Respondent’s defences will ultimately be successful is an issue for trial. The Applicants certainly have an argument that the defences will not be successful. The Applicants have not, however, met the high threshold of establishing that the defences will inevitably fail or that it is beyond doubt that the defences raised by the Respondent are not sustainable. It will be for trial to decide if the characterization of the Respondent that the reference to danger and risk relates not just to the product but the fact that the product was different than that ordinarily used is a sustainable defence.

[27] For the reasons set out above the application as it relates to the alleged defamatory statements is dismissed.

[28] The Applicants also seeks two additional remedies.

[29] The first relates to the publication of the home address of Blayne Iskiw, an independent contractor of MHCare Medical Corporation.

[30] The Respondent published on social media a number of Corporate Registry Search results for a number of companies. This information is available to any member of the public. A corporate registry search for a corporation will return the corporate name, the registered office, directors, and shareholders of the corporation as well as their address. Mr. Iskiw is identified as a director of one of the corporations that the Respondent published corporate search results for and the address listed for Mr. Iskiw is his home address.

[31] At the beginning of the application on Friday counsel for the Respondents advised that Mr. Pike undertook to remove Mr. Iskiw's home address and undertook not to publish the home address of any of the individuals involved in the defamation action. This undertaking, I note, requires that the Respondent be aware that the information is home information. This will require the Applicants to bring to the Respondent's attention information that is otherwise publicly available but is home information. Because this issue has been dealt with by the Respondents through Mr. Pike's undertaking, it is not an aspect of the application that I need to deal with.

[32] The Applicant Mr. Mraiche also seeks to restrain Mr. Pike from publishing information about his family members. The record demonstrates that in a publication on social media the Respondent identified a number of individuals as related to Mr. Mraiche (one of his sons, two nephews, and other family members) together with the fact that certain of these individuals worked for the Government of Alberta, their position, and work phone number as contained on the Government of Alberta online employee directory. Also published was publicly available political party donations made by specific of these individuals. The Applicant argues that a restraining order should be granted that prevents the Respondents from publishing information about Mr. Mraiche's family members.

[33] Counsel for Mr. Mraiche confirmed at the hearing that no personal home contact information was published relating to his family members. No personal cell phone or home phone numbers, only work phone numbers and the fact that the individuals worked for the Government of Alberta and the area they worked for was published. Only that publicly available information was published, no home information was published.

[34] Mr. Mraiche appears to be arguing that Mr. Pike should be restrained from publishing any information about his family members on the basis that this is harassment of those family members.

[35] These family members are not parties to the defamation action or the injunction application. The publication of their names, positions with the Government of Alberta, and political donations are part of the story that the Respondent is exploring. The publication of this particular information in the circumstances of this case is not harassment as defined in the common law, or the tort of harassment as recognized by this court. There is no basis for granting a restraining order. That aspect of the application is dismissed.

[36] The record before me does demonstrate that MHCare and Mr. Mraiche are receiving hostile and intimidating comments that Mr. Mraiche perceives as threatening causing him to fear for his safety and the safety of his family members and employees of MHCare. I point out that none of those comments have been made by Mr. Pike. The hostile and intimidating comments

put in evidence are from third parties to MHCare directly either through Google reviews or to MHCare website or voicemail.

[37] There has, however, been at least one comment in response to Mr. Pike's social posts, on The Breakdown's social media account, that has been hostile, intimidating and threatening. In response to The Breakdown's question "can anyone recommend a good lawyer who wants to take on one of the figures in one the biggest #abpoli stories of the year" (this being a reference to The Breakdown needing to hire a lawyer to defend the defamation action) a third party posted a picture of Luigi Mangione, the individual who is charged with murdering the CEO of an American health insurance company. Posting a photo of Luigi Mangione in this context is hostile, intimidating, and threatening. The Respondent has removed that post. The issue of whether the Respondent should have to remove the post is therefore no longer for me to decide.

[38] I do, however, want to advise Mr. Pike and to the extent that he operates as Breakdown Media that he has a legal obligation to actively monitor and control posted comments on his social media. If the posted comments incite or contain calls to violence it is incumbent on Mr. Pike to remove them: *Buy Beauty LCC v Dong* 2024 BCSC 815.

[39] The Respondents seek to bring a cross application seeking an order for the Applicants to produce their Affidavit of Records by March 9, 2025, instead of April 10, 2025, in the underlying defamation action. I am not going to consider that application. It can be brought through regular court process. I direct the parties to the court website for court procedure including urgent applications if the Respondent believes that their application is urgent.

[40] If the parties are unable to agree on costs they shall, within 30 days, provide written submissions of no longer than four pages. If the parties are seeking to address costs of both the February 14 and February 28 hearing dates, written submissions shall only be submitted if the appeal of the February 14 decision is concluded. If the appeal of the February 14 decision is ongoing, the parties shall submit their proposal with respect to proceeding with and the timing of costs submissions.

Heard on the 28th day of February, 2025.

Oral decision delivered on the 3rd day of March, 2025.

Dated at the City of Edmonton, Alberta this 6th day of March, 2025.

Bonnie L. Bokenfohr
J.C.K.B.A.

Appearances:

Gregory R. Bentz, Stillman LLP
for the Plaintiffs

Jessie Bakker, co-counsel, Stillman LLP
for the Plaintiffs

Taylor Maxston, co-counsel, Stillman LLP
for the Plaintiffs

Richard E. Harrison, Wilson Laycraft
for the Defendants

Shaun Fluker, co-counsel, Wilson Laycraft
for the Defendants