IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Valley Traffic Systems Inc. v. Hanna,*
2026 BCSC 640

Date: 20260414
Docket: S252614
Registry: Vancouver

Between:

Valley Traffic Systems Inc., Philip Keith Jackman and Trevor Paine

Plaintiffs

And

Remon Hanna

Defendant

Before: The Honourable Justice Chan

Reasons for Judgment

Counsel for the Plaintiffs:	T.J. Moran S. Silver
No other appearances	
Place and Date of Hearing:	Vancouver, B.C. March 12, 2026
Place and Date of Judgment:	Vancouver, B.C. April 14, 2026

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Introduction

[1] Valley Traffic Systems Inc. ("VTS"), Philip Keith Jackman and Trevor Paine bring an application pursuant to Rule 3-8(13) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 [*SCCR*] for the court to assess damages against Remon Hanna. VTS, Mr. Jackman and Mr. Paine had obtained a default judgment against Mr. Hanna in October 2025, with damages to be assessed.

[2] VTS, Mr. Jackman, Mr. Paine and Mr. Hanna had been found liable for defamation against Raoul Malak and his companies (the "Ansan Group") after trial in 2023 and ordered to pay damages of $1.5 million. VTS, Mr. Jackman and Mr. Paine's appeal was dismissed in 2024. On January 20, 2025, VTS, Mr. Jackman and Mr. Paine remitted to Mr. Malak and the Ansan Group the amount of $1,729,692.58 in full satisfaction of the amount owing, being the damages awarded plus interest.

[3] VTS, Mr. Jackman and Mr. Paine started this action against Mr. Hanna on April 7, 2025, seeking contribution and indemnity from him. Though Mr. Hanna was served with the notice of civil claim, Mr. Hanna did not file a response. VTS, Mr. Jackman and Mr. Paine obtained a default judgment on October 8, 2025.

Background

[4] This long running litigation concerned a defamation campaign against Mr. Malak and the Ansan Group in 2012. All the parties were involved in the traffic control industry. Mr. Jackman owned and was the president of VTS. Mr. Paine was the vice president of VTS. Mr. Hanna worked briefly for the Ansan Group in 2010 but had a falling out with Mr. Malak in 2011. The Ansan Group was a competitor in the industry.

[5] Mr. Hanna started working with VTS in January 2012. At the time, a lucrative contract for traffic control services for BC Hydro was about to be put out for tender. It was found at trial that Mr. Hanna entered a profit-sharing agreement with VTS, pursuant to which he was to receive 75% of the profits from work done for BC Hydro

on Vancouver Island, with VTS to receive the remaining 25%. VTS paid Mr. Hanna $2.4 million over five years.

[6] In June 2012, a series of defamatory publications appeared on various internet sites about Mr. Malak and his companies. The posts suggested Mr. Malak had engaged in money laundering, received kickbacks and was involved in bribery and other criminal activity. The publications were made to Telus, then Premier Christy Clark and Rich Coleman, the minister responsible for BC Hydro at the time.

[7] BC Hydro issued its request for proposals in August 2012. In February 2013, it awarded the contract to VTS. In May 2013, Mr. Malak and the Ansan Group commenced the underlying defamation action, alleging VTS, Mr. Jackman, Mr. Paine and Mr. Hanna were responsible for the defamatory publications.

The First Trial

[8] The first trial dealt with liability only. The trial judge in reasons indexed as *Malak v. Hanna*, 2017 BCSC 1739 found Mr. Hanna to be the author of the defamatory materials. Mr. Jackman and Mr. Paine were found liable as part of a common design to defame Mr. Malak and his companies. VTS was found directly and vicariously liable.

[9] VTS, Mr. Jackman and Mr. Paine appealed the finding they were liable. The Court of Appeal allowed the appeal in part, setting aside most liability findings against VTS, Mr. Jackman and Mr. Paine and ordering a new trial: *Malak v. Hanna*, 2019 BCCA 106.

The Second Trial

[10] Mr. Hanna did not participate in the second trial. The trial judge admitted parts of his evidence from his examination for discovery: *Malak v. Hanna*, 2023 BCSC 1337 at para. 31 [*2023 Trial*].

[11] The trial judge reviewed the emails sent between Mr. Jackman, Mr. Paine, and Mr. Hanna and emails sent to third parties sharing the defamatory publications: *2023 Trial* at paras. 57–81. The judge did not accept Mr. Jackman's and Mr. Paine's

evidence on various matters, finding them not to be credible. Importantly, the judge found their evidence that they did not know that Mr. Hanna was the author of the defamatory publications not to be credible: *2023 Trial* at para. 121. The judge also found the profit-sharing agreement to be a sham, as the $2.4 million paid to Mr. Hanna was not justified by any work Mr. Hanna performed both before and after the BC Hydro contract was awarded: *2023 Trial* at para. 146. The judge found Mr. Jackman, Mr. Paine and Mr. Hanna participated in a common design to carry out a defamation campaign against Mr. Malak and the Ansan Group. The judge found the emails sent by Mr. Jackson in June and August 2012, forwarding either defamatory publications or links to defamatory publications, was part of the smear campaign: *2023 Trial* at para. 152. The judge found these three individuals intended to harm the reputation of Mr. Malak and the Ansan Group for the purpose of putting VTS in a better position to obtain the BC Hydro contract and other traffic control services work, and they knew Mr. Malak and the Ansan Group would suffer injury: *2023 Trial* at para. 154.

[12] The judge awarded Mr. Malak general damages of $500,000 and aggravated damages of $200,000. He awarded the Ansan Group general damages of $300,000. He awarded punitive damages of $500,000: *2023 Trial* at para. 337. VTS, Mr. Jackman, Mr. Paine and Mr. Hanna were found jointly and severally liable: *2023 Trial* at para. 336.

[13] VTS, Mr. Jackman and Mr. Paine (the “Appellants”) appealed. They argued the trial judge erred by not applying the participation element of the test for a common design tort. The Court of Appeal dismissed this argument, as the trial judge found Mr. Jackman and Mr. Paine paid Mr. Hanna $2.4 million to carry out the smear campaign: *Valley Traffic Systems Inc. v. Malak*, 2024 BCCA 370 at para. 23 [*2024 Appeal*]. The Appellants argued the trial judge’s finding that Mr. Jackman and Mr. Paine paid Mr. Hanna $2.4 million as compensation for the defamation campaign was not supported by the evidence. The Court of Appeal rejected this argument, finding there was evidence on which the judge could have drawn that inference: *2024 Appeal* at para. 33. The Appellants argued the trial judge erred by relying on Mr. Hanna’s examination for discovery evidence. The Court of Appeal found the trial

judge did not so err. The Court of Appeal noted the trial judge's finding that the profit-sharing agreement "was a complete fabrication, meant to mask the true reason for payments made by VTS to Mr. Hanna, being compensation for carrying out a campaign of defamation to harm the business reputation of the plaintiffs", was not based on Mr. Hanna's evidence, but on the inconsistencies in the evidence of Mr. Paine and Mr. Jackman and the improbability of such an important agreement remaining undocumented: *2024 Appeal* at para. 43.

[14] The Court of Appeal rejected the Appellants' argument that the general damages award was too high. The Appellants also argued the aggravated damages of $200,000 was too high: *2024 Appeal* at para. 59. The argument was Mr. Jackman's and Mr. Paine's conduct, forwarding hyperlinks or copies of defamatory material to a handful of people, did not meet the threshold for malice that is a prerequisite for an award of aggravated damages. The Court of Appeal dismissed this argument:

> [62] I would not accede to this submission. The judge found that Mr. Paine and Mr. Jackman did far more than simply pass on a few emails and hyperlinks. To the contrary, he concluded they hired and paid Mr. Hanna a significant sum of money to engage in a widespread and malicious smear campaign in order to damage and weaken a commercial competitor. The judge's finding that their conduct was malicious is well-founded on the evidence.

[15] The Appellants argued the trial judge erred by awarding aggravated and punitive damages on a joint and several basis. The Court of Appeal dismissed this argument:

> [80] Here, the appellants engaged in a common design to defame the respondents to gain a competitive advantage. They hired Mr. Hanna to carry out a strategic campaign of defamation, were fully aware of its content and scope, and paid Mr. Hanna $2.4 million for his efforts. In these circumstances, the conduct of all of the defendants was equally worthy of rebuke. Accordingly, I see no basis to set aside the joint and several nature of the punitive and aggravated damage awards.

Contribution and Indemnity

[16] As VTS, Mr. Jackman and Mr. Paine have paid in full the damages award, they seek contribution and indemnity from Mr. Hanna. They rely on s. 4 of the *Negligence*

Act, R.S.B.C. 1996, c. 333, and s. 53(3) of the *Law and Equity Act*, R.S.B.C. 1996, c. 253.

[17] As Mr. Hanna has not filed a response and a default judgment was obtained, VTS, Mr. Jackman and Mr. Paine rely on Rule 3-8(13) of the *SCCR*, which sets out how damages are to be assessed on a default judgment:

> **Alternative methods of assessment**
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> (13) If a plaintiff has obtained judgment under subrule (5) or (6), the plaintiff may, instead of proceeding to trial to assess the damages or the value of the goods, apply to the court, and, on that application, the court may
>
> (a) assess the damages or value of the goods summarily on affidavit or other evidence,
>
> (b) order an assessment, an inquiry or an accounting,
>
> (c) give directions as to the trial or hearing of the assessment or determination of value, or
>
> (d) make any other order the court considers will further the object of these Supreme Court Civil Rules.

[18] The affidavit evidence in this application shows an order of substituted service was obtained and Mr. Hanna was served with the notice of civil claim ("NOCC") in this action on or about July 3, 2025. Mr. Hanna did not file a response. Default judgment was obtained on October 8, 2025, with damages to be assessed. Where the plaintiff has obtained judgment for damages to be assessed, it may apply to a judge to have the damages assessed either at trial or summarily on affidavit evidence: *SCCR*, Rule 3-8(12) & (13). Having failed to file a response to civil claim, the defendant is not a party of record and need not be served with the notice of application for summary assessment: *1163499 B.C. Ltd. v. Yao*, 2025 BCCA 443 at para. 51, leave to appeal to SCC filed 42207 (11 February 2026).

[19] VTS, Mr. Jackman and Mr. Paine seek contribution and indemnity from Mr. Hanna for the damages award they have paid in full. In cases where liability was found jointly and severally based on a common design, the court can apportion the liability based on the parties' respective degrees of fault: *Mainland Sawmills Ltd v. USW Union Local – 1-3567*, 2007 BCSC 1433 at paras. 189–191, 336–337.

[20] VTS, Mr. Jackman and Mr. Paine argue they should be indemnified 100% by Mr. Hanna. Alternatively, they argue Mr. Hanna should indemnify them 80% of the damages, or at least 50%. They argue the court found Mr. Hanna was the author of the defamatory material and mainly responsible for its distribution. They argue the evidence was Mr. Paine did not publish or republish any of the defamatory statements, and Mr. Jackman resent only one email that constituted republication. They argue the emails sent by Mr. Jackman only contained hyperlinks, which did not qualify as republishing. Only two emails sent on August 7, 2012, by Mr. Jackman had defamatory content, which was found to have been written by Mr. Hanna.

[21] VTS, Mr. Jackman and Mr. Paine argue those who spread the defamatory statements wider or emphasized the defamatory statements more prominently in their publications will be more liable for damages than those that disseminate the defamatory statements among a smaller radius, relying on *Thomas v. McMullan*, 2002 BCSC 22 at paras. 111–112, 115.

[22] However, *Thomas v. McMullan* was not a case where liability was found on a common design. Instead, it involved the main defendant who created the defamatory material, and various newspapers joined as third parties who published it: paras. 58, 116. In my view, *Thomas v. McMullan* is distinguishable on the facts.

[23] With respect, Mr. Jackman and Mr. Paine are incorrectly minimizing their involvement in the smear campaign. The trial judge found they hired Mr. Hanna and entered into an agreement with him for the purpose of conducting a defamation campaign against Mr. Malak and the Ansan Group. The trial judge found the parties hid behind a sham profit-sharing agreement to mask the true nature of the endeavour. The trial judge found they were motivated by malice, awarding aggravated and punitive damages. Those findings were upheld on appeal. In my view, in these circumstances, the fact that Mr. Hanna created the defamation material does not lessen the liability of Mr. Jackman and Mr. Paine.

[24] Mr. Jackman and Mr. Paine did not address this key factual finding—that they paid Mr. Hanna $2.4 million to conduct the defamation campaign. This finding was

upheld on appeal. In these circumstances, their argument that Mr. Hanna should be held more responsible because he was the creator of the defamatory material is not persuasive. Mr. Hanna created the defamatory materials because he was paid to do so by Mr. Jackman and Mr. Paine.

[25] VTS, Mr. Jackman and Mr. Paine argue in these circumstances where Mr. Hanna has not filed a response and default judgment has been obtained, the court can proceed on the basis that the allegations in the NOCC have been admitted. As I understand it, their argument is the court can proceed on the basis that Mr. Hanna is not disputing he is 100% responsible, or 80% responsible, or 50% responsible, as set out in their notice of application. In my view, the duty of the court in assessing damages where there has been a default judgment is not limited to accepting the plaintiff's position. The court has to conduct the apportionment based on findings made by the trial judge and upheld on appeal.

[26] Mr. Jackman, Mr. Paine and Mr. Hanna were found to be part of a common design to defame Mr. Malak. The arguments Mr. Jackman and Mr. Paine make now to push the liability completely to Mr. Hanna have been rejected by the Court of Appeal: *2024 Appeal* at para. 62.

[27] While they argue Mr. Hanna profited $2.4 million from the defamatory statements, they neglect their role—they paid Mr. Hanna $2.4 million to create and distribute the defamatory material.

[28] In my view, there is no basis to differentiate the degree of fault of Mr. Jackman, Mr. Paine and Mr. Hanna. Each of them should share equally in the payment of damages, with each paying one third of the damages.

Conclusion

[29] Mr. Hanna shall contribute and indemnify VTS, Mr. Jackman and Mr. Paine for one third of the $1,729,692.58, which is $576,564.19.

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"The Honourable Justice Chan"