

KING'S BENCH FOR SASKATCHEWAN

Citation: **2024 SKKB 63**

Date: **2024 04 10**
File No.: QBG-SA-00849-2018
Judicial Centre: Saskatoon

BETWEEN:

ALICIA YASHCHESHEN

PLAINTIFF

- and -

ATTORNEY GENERAL OF CANADA, JENNA STRECK, CAMERON
NASH, TREVOR PIETERSE, and DONALD DYKER

DEFENDANTS

Appearing:

Brianna Marie Spent
Alicia Yashcheshen

for the respondent Jenna Streck
self-represented plaintiff

JUDGMENT
April 10, 2024

BERGBUSCH J.

I. INTRODUCTION

[1] For the second time, this Court is tasked with deciding a preliminary application regarding the adequacy of the pleadings in this proceeding. The plaintiff, Alicia Yashcheshen, has discontinued her claim against four of the five defendants to the action. The remaining defendant, Jenna Streck, has applied for an order striking the latest version of the statement of claim as against her on one or more of the following grounds: it discloses no reasonable cause of action; it is scandalous, frivolous, and/or vexatious; and it is immaterial, redundant, and/or unnecessarily lengthy. Ms. Streck also objects to the admissibility of an affidavit filed in opposition to her application.

[2] The plaintiff has applied for orders striking an affidavit filed in support of Ms. Streck's application and Ms. Streck's statement of defence. During the hearing, the plaintiff advised the court that she has abandoned an application to strike Ms. Streck's affidavit of documents.

[3] I have determined that the statement of claim must be struck because, in its current form, it is replete with irrelevant and immaterial allegations, and it is so lengthy that it is an obstacle to the just adjudication of the remaining claims. That is, the statement of claim fails to define clearly, precisely, and concisely the controversy between Ms. Yashcheshen and Ms. Streck, or to give fair notice to Ms. Streck of the case which she must meet. Moreover, two of the four causes of action that the statement of claim aims to advance have no prospect of success.

[4] A painstaking review of the statement of claim discloses the essential elements of two recognized causes of action, defamation and intentional infliction of mental suffering. However, it is not the court's role to separate the wheat from the chaff by rewriting the statement of claim for the plaintiff, which is what must be done.

[5] Accordingly, the statement of claim is struck, but the plaintiff has leave to file a revised statement of claim within 30 days, failing which her claim will stand dismissed.

II. BACKGROUND AND PROCEDURAL HISTORY

[6] The plaintiff has initiated many proceedings before this Court. Often, she has commenced multiple actions in respect of the same subject matter. This proceeding is one of five actions that the plaintiff commenced over criminal harassment charges and her conviction for breaching a peace bond that was subsequently quashed on procedural grounds: *R v Yashcheshen* (28 March 2017) Yorkton, CRM-YT-00025-2016

(Sask QB); *Saskatchewan v Yashcheshen*, 2020 SKQB 160 at paras 51 and 57 [*Krogan Decision*].

[7] *Yashcheshen v Canada (Attorney General)*, 2020 SKQB 185 [*Mitchell Decision*], involved, among other things, allegations of malicious prosecution against the Attorney General for Saskatchewan. The impugned prosecution flowed from a sequence of events that is also directly raised in this case. For context, I reproduce paras. 5 to 12 of Mitchell J.'s reasons in the *Mitchell Decision*:

[5] All of these alleged torts have their genesis in a convoluted series of events which culminated on August 11, 2017 in Ms. Yashcheshen's conviction for breaching her recognizance contrary to s. 811 of the *Criminal Code*, RSC 1985, c C-46.

[6] Earlier, on May 13, 2015, the police charged Ms. Yashcheshen with criminal harassment for repeatedly and persistently contacting Ms. Jenna Streck contrary to ss. 264(2)(b), and harassing communications contrary to ss. 372(3) of the *Criminal Code* [Streck Charges].

[7] On July 14, 2016, Ms. Yashcheshen appeared before the Honourable Judge B.M. Klause to set trial dates on the Streck Charges. However, at that hearing, Ms. Yashcheshen ultimately agreed to enter into a peace bond as authorized under s. 810 of the *Criminal Code*.

[8] A few short weeks later, on August 8, 2016, Ms. Yashcheshen served and filed a notice of appeal against the peace bond.

[9] As well, Ms. Yashcheshen failed to report to her probation officer in August 2016, as required to do so by the peace bond. She assumed that because the recognizance was under appeal, she no longer was obliged to abide by its terms. As a result, she was charged with failing to report contrary to s. 811 of the *Criminal Code*.

[10] On March 28, 2017, Layh J. in an unreported judgment, *R v Yashcheshen* (28 March 2017) Yorkton, CRM 25/2016 (Sask QB) [*Layh Judgment*], quashed the peace bond (See: Exhibit V, affidavit of Andrew Wyatt sworn May 13, 2019 [Wyatt affidavit]). While acknowledging that a peace bond was a sensible way of dealing with the Streck Charges, Layh J. concluded that it "should be quashed on the basis that Ms. Yashcheshen's agreement to the peace bond was not voluntary, unequivocal and informed": *Layh Judgment* para 48, Exhibit V, Wyatt affidavit.

[11] Although Layh J. quashed the peace bond, the Crown continued to prosecute Ms. Yashcheshen under s. 811 respecting the breach which had occurred while the peace bond was still in force.

[12] On August 11, 2017, the Honourable Judge P.R. Koskie found Ms. Yashcheshen guilty of this charge and sentenced her to an absolute discharge. That same day, Ms. Yashcheshen filed a notice of appeal against this conviction.

[8] Ultimately, Ms. Yashcheshen's application for leave to appeal her conviction for breaching the peace bond was dismissed because the proposed appeal did not raise a question of law: *Mitchell Decision* at para 15. However, Ms. Yashcheshen was eventually acquitted of the criminal harassment charges laid as a result of Ms. Streck's complaints: *Krogan Decision* at para 51.

[9] As I read the *Mitchell Decision*, the core of Ms. Yashcheshen's claim against the Attorney General for Saskatchewan was alleged malicious prosecution for breaching the peace bond.

[10] The diverse subjects of the present claim include alleged improper complaints of criminal harassment by Jenna Streck, alleged wrongdoing by Royal Canadian Mounted Police [RCMP] members in investigating and laying criminal harassment charges (referred to as the "Streck Charges" in the *Mitchell Decision*) against Ms. Yashcheshen, a lost shipment of medical marijuana, and alleged improper attitudes of RCMP officers regarding medical marijuana. The statement of claim was issued on June 1, 2018, and named five defendants – the Attorney General of Canada [AGC], Jenna Streck, Cameron Nash, Trevor Pieterse, and Donald Dyker.

[11] On June 22, 2018, the AGC applied to strike the statement of claim as an abuse of process, contending that it duplicated an amended statement of claim in a Yorkton, Saskatchewan action involving the same parties. On June 28, 2018, Justice Danyiuk determined that the statement of claim in this proceeding was not an abuse of process. Ms. Yashcheshen's amended claim in the Yorkton action had not been

accepted for filing because she had missed a deadline set by Justice Layh; in consequence, the live claims in the Yorkton action and this action were not duplicative. Instead, Danyliuk J. struck the statement of claim in this proceeding on the grounds that it did not disclose a reasonable cause of action and was unnecessarily prolix: *Yashcheshen v Canada (Attorney General) et al.* (28 June 2018) Saskatoon, QBG-SA-00849-2018 (Sask QB).

[12] Justice Danyliuk's decision was set aside on appeal, with the Court of Appeal finding that Ms. Yashcheshen did not have adequate notice and an adequate opportunity to respond to the grounds for striking the statement of claim not specified in the AGC's notice of application: *Yashcheshen v Canada (Attorney General)*, 2021 SKCA 116 [*Yashcheshen CA*]. The Court of Appeal did not address the adequacy of the statement of claim, leaving that to be determined in the first instance by this Court on a proper application: *Yashcheshen CA* at para 95.

[13] To that stage, Ms. Streck had not been properly served with the statement of claim. On January 19, 2023, Ms. Yashcheshen applied for an order to extend the time for serving the statement of claim on Ms. Streck or, alternatively, an order validating service. Justice Currie extended the time for service of the statement of claim to January 31, 2023.

[14] It appears that Ms. Yashcheshen successfully served the statement of claim on Ms. Streck, because Ms. Streck's counsel served a statement of defence on March 23, 2023.

[15] On March 26, 2023, Ms. Yashcheshen served a notice to produce documents, seeking copies of documents referred to in Ms. Streck's statement of defence.

[16] Counsel for the AGC, Cameron Nash, Trevor Pieterse, and Donald Dyker filed a new application to strike the statement of claim on March 28, 2023.

[17] On March 31, 2023, Ms. Yashcheshen discontinued her claim against all defendants except Ms. Streck.

[18] Also on March 31, 2023, Ms. Yashcheshen filed a second amended statement of claim and a reply to Ms. Streck's statement of defence.

[19] On May 8, 2023, Ms. Yashcheshen filed a notice of application seeking orders against Ms. Streck for failing to provide a response to Ms. Yashcheshen's notice to produce documents and for failing to sign and return a completed acknowledgement of service. That application was adjourned *sine die* on May 23, 2023, and has not been set down for a hearing to date. (Because Ms. Yashcheshen is self-represented, I note in passing that her application is premature because the parties have not completed mediation pursuant to s. 7-1 of *The King's Bench Act*, SS 2023, c 28, nor have they been exempted from doing so. I mention this to discourage unnecessary court applications should this case proceed further).

[20] On May 26, 2023, counsel for Ms. Streck filed a notice of application for an order striking the second amended statement of claim. The notice of application stated that Ms. Streck relied upon, among other things, a brief of law to be filed later. In fact, no brief of law was filed.

[21] On June 12, 2023, Ms. Yashcheshen filed a copy of her affidavit of documents in this proceeding, and Ms. Streck filed hers on July 13, 2023. In both cases, these unauthorized filings contravened Rule 5-5(5) of *The King's Bench Rules*.

[22] On July 18, 2023, an affidavit sworn by Ms. Streck's counsel was filed in support of her client's application to strike.

[23] On August 14, 2023, Ms. Yashcheshen filed an amended notice of application, the affidavit of Nadine Yashcheshen dated July 18, 2023, and a brief of law. None of these documents were served with the notice required in Rule 6-9 of *The King's Bench Rules* or filed in accordance with the deadlines in Rules 6-14 and 6-15 of *The King's Bench Rules*. Ms. Yashcheshen also filed a discontinuance of claim against Ms. Streck, accompanied by a copy of an email to Ms. Streck's counsel stating that the discontinuance was contingent on Ms. Streck's consent under Rule 4-49(2) that she would not seek costs. Since Ms. Streck did not accept the offer, Ms. Yashcheshen should not have filed the discontinuance and correspondence.

[24] Finally, and for further context, on June 3, 2020, a judge of this Court declared Ms. Yashcheshen to be a vexatious litigant and made an order pursuant to Rule 11-28 of *The King's Bench Rules* prohibiting her from instituting any proceedings, including statements of claim, originating applications, or other applications, in this Court without prior leave: *Krogan Decision*. That order was subsequently modified on appeal and does not bar Ms. Yashcheshen from bringing interlocutory applications in ongoing litigation without prior leave of the court: *Yashcheshen v Teva Canada Ltd.*, 2022 SKCA 49 at paras 103-108, [2022] 8 WWR 60 [*Teva*].

III. ISSUES

[25] The issues raised by these applications are the following:

- (a) Whether the affidavits of Brenna Spent and Nadine Yashcheshen are admissible;
- (b) Whether the statement of claim discloses a reasonable cause of action against Ms. Streck;
- (c) Whether the statement of claim is scandalous, frivolous, or vexatious;

- (d) Whether the statement of claim is immaterial, redundant, or unnecessarily lengthy;
- (e) If the statement of claim is struck, whether Ms. Yashcheshen should be given an opportunity to file an amended claim; and
- (f) Whether the statement of defence should be struck.

IV. ADMISSIBILITY OF AFFIDAVITS

[26] Counsel for Ms. Streck filed a seven-paragraph affidavit attaching several emails she received from Ms. Yashcheshen. The emails primarily concern discussions between the plaintiff and Ms. Streck's counsel regarding an alternate hearing date for Ms. Streck's strike application and Ms. Yashcheshen's failure to serve Ms. Streck's counsel with a copy of the notice of discontinuance for the other defendants. Ms. Streck's counsel emphasises the following comment made by Ms. Yashcheshen in an email she sent on May 29, 2023:

You originally set the chambers date for June 15th, 2023, and you think June 20th is an adjournment? As you may or may not know, litigation is purely hobby for me, I don't get paid for this and this isn't my job; therefore, it must not interfered with my other obligations. ...

[Errors in original]

[Emphasis added]

[27] Ms. Yashcheshen applies to strike the affidavit, arguing that disclosing her emails breaches her privacy and is contrary to *The Privacy Act*, RSS 1978, c P-24, in some way. Correspondence between the parties is often tendered in evidence in civil litigation, and Ms. Yashcheshen has attempted to do the same in this proceeding when it has suited her purposes. Ms. Yashcheshen's argument that the admission of her email correspondence with Ms. Streck's counsel would violate her privacy has no merit.

[28] Ms. Yashcheshen also asserted that the affidavit is improper, prejudicial to her, irrelevant, and full of opinion evidence. In response, Ms. Streck argued that the

passage quoted above shows that this litigation is vexatious. The affidavit is relevant to that issue and admissible. I will address later the significance I place on Ms. Yashcheshen's comment.

[29] This takes me to the evidence Ms. Yashcheshen attempted to file the day before the chambers hearing, an affidavit affirmed by her mother, Nadine Yashcheshen. The affidavit (not including the exhibits) is 17 pages and 69 paragraphs long. Nadine Yashcheshen averred that the "matters deposed to herein are purely formal in nature and, in my opinion, are uncontroversial and uncontroverted". I find the opposite to be the case.

[30] An affidavit that includes second-hand information known to the deponent, which sets out the source of the information and the deponent's grounds for believing it, may be admitted on an interlocutory application: Rule 13-30 of *The King's Bench Rules*. Much contained in the affidavit of Nadine Yashcheshen is hearsay, sometimes double or triple hearsay, and for the most part she has not given the source of the information or explained why she believes it. The affidavit is also rife with argument and opinion. The exhibits attached to the affidavit, which include text messages between Ms. Yashcheshen and others, police reports, and Ms. Yashcheshen's complaint about the conduct of RCMP members, are not admissible through the plaintiff's mother.

[31] Ms. Yashcheshen argued that her mother is a participating expert, and her opinion evidence should be admitted following the guidance in *Kon Construction Ltd. v Terranova Developments Ltd.*, 2015 ABCA 249, 387 DLR (4th) 623. Surprisingly, Ms. Yashcheshen did not refer me to the decision in *Teva* at paras 79-86, where the Court of Appeal concluded the chambers judge should have considered whether Ms. Yashcheshen's family physician could offer an opinion as a "participating expert witness". Ms. Yashcheshen does not explain how her mother could be seen as a

participating expert. The opinions in Nadine Yashcheshen's affidavit are simply her daughter's arguments, nothing more.

[32] The affidavit of Nadine Yashcheshen is inadmissible in its entirety.

V. APPLICATIONS TO STRIKE

(a) Law Governing Applications to Strike

[33] Both parties have applied to strike each other's pleadings. Their applications are governed by Rule 7-9 of *The King's Bench Rules*, which reads:

Striking out a pleading or other document, etc. in certain circumstances

7-9(1) If the circumstances warrant and one or more conditions pursuant to subrule (2) apply, the Court may order one or more of the following:

- (a) that all or any part of a pleading or other document be struck out;
- (b) that a pleading or other document be amended or set aside;
- (c) that a judgment or an order be entered;
- (d) that the proceeding be stayed or dismissed.

(2) The conditions for an order pursuant to subrule (1) are that the pleading or other document:

- (a) discloses no reasonable claim or defence, as the case may be;
- (b) is scandalous, frivolous or vexatious;
- (c) is immaterial, redundant or unnecessarily lengthy;
- (d) may prejudice or delay the fair trial or hearing of the proceeding; or
- (e) is otherwise an abuse of process of the Court.

- (3) No evidence is admissible on an application pursuant to clause (2)(a).

[34] The principles that apply to an application to strike a pleading for failing to disclose a reasonable cause of action or defence are well established. An oft-cited summary is found in *Collins v Saskatchewan Rural Legal Aid Commission*, 2002 SKQB 201 at para 11:

[11] The principles which apply to an application to strike a plaintiff's claim under Rule 173(a) are the following:

- (i) The claim should be struck where, assuming the plaintiff proves everything alleged in the claim there is no reasonable chance of success. (*Sagon v. Royal Bank of Canada et al.* (1992), 105 Sask. R. 133 at 140 (C.A.));
- (ii) The jurisdiction to strike a claim should only be exercised in plain and obvious cases where the matter is beyond doubt. (*Sagon*, at 140; *Milgaard v. Kujawa et al.* (1994), 123 Sask. R. 164 (Sask. C.A.));
- (iii) The court may consider only the claim, particulars furnished pursuant to a demand and any document referred to in the claim upon which the plaintiff must rely to establish its case (*Sagon*, at p. 140);
- (iv) The court can strike all, or a portion of the claim (Rule 173);
- (v) The plaintiff must state sufficient facts to establish the requisite legal elements for a cause of action. (*Sandy Ridge Sawing Ltd. v. Norrish and Carson* (1996), 140 Sask. R. 146 (Q.B.)).

[35] When reviewing a pleading to determine whether it discloses a reasonable cause of action or defence, the court assumes all of the facts as pleaded are true, unless they are manifestly incapable of being proven: *R v Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para 22, [2011] 3 SCR 45 [*Imperial Tobacco*].

[36] In *Harpold v Saskatchewan (Corrections and Policing)*, 2020 SKCA 98 at para 26 [*Harpold*], the Court of Appeal instructed that a chambers judge must take into consideration the whole of the statement of claim, including any technical pleading

and alleged facts, to determine whether the essential elements of a cause of action are present:

[26] When called upon to review a claim in response to an application under Rule 7-9(2)(a), the reviewing judge is required to determine whether sufficient facts have been pleaded to establish the legal elements of a cause of action by considering the whole of the statement of claim. It is for the reviewing judge “to determine whether the combined effect of any technical pleading, together with other facts, properly plead the essential elements of the cause of action” (*Reisinger v J.C. Architect Ltd.*, 2017 SKCA 11 at para 20, 411 DLR (4th) 687 [*Reisinger*]).

[37] Rule 13-8 of *The King’s Bench Rules* sets out the general requirements for pleadings. This Rule reflects the fourfold function of pleadings, which is:

1. To define with clarity and precision the question in controversy between litigants.
2. To give fair notice of the case which has to be met so that the opposing party may direct his evidence to the issues disclosed by them. A defendant is entitled to know what it is that the plaintiff asserts against him; the plaintiff is entitled to know the nature of the defence raised in answer to his claim.
3. To assist the court in its investigation of the truth of the allegations made by the litigants.
4. To constitute a record of the issues involved in the action so as to prevent future litigation upon the matter adjudicated between the parties.

(See: W.B. Williston & R.J. Rolls, *The Law of Civil Procedure*, vol 2 (Toronto: Butterworths, 1970) at 636, cited in *Ducharme and Holben v Davies and Rogoschewsky* (1983), 29 Sask R 54 (CA); and *Harpold* at para 29).

[38] Pleadings that do not achieve technical compliance with *The King’s Bench Rules* should not necessarily be struck if they adequately serve their purpose, which is to define the issues in dispute and give notice to the other side of what is claimed. The court’s focus is on the substance of the pleading rather than its form:

Thirsk v Public Guardian and Trustee of Saskatchewan, 2017 SKQB 66 at paras 21 and 23 [*Thirsk*]; *Harpold* at para 32.

[39] Screening out claims and defences that have no chance of success enhances efficiency, promotes fairness, and avoids unnecessary costs: *Harpold* at para 33; *Imperial Tobacco* at paras 19-20. However, requiring strict compliance with the technical rules of pleading may deprive plaintiffs, especially self-represented litigants, of access to the court: *Harpold* at para 34.

[40] While the court has an obligation to be fair to both sides, in practice judges are often less exacting when scrutinizing pleadings drafted by self-represented persons without the benefit of legal advice: *Yashcheshen v College of Physicians and Surgeons of Saskatchewan*, 2019 SKQB 43 at para 7. However, this leniency has its limits.

[41] In *Harpold* at para 37, the Court of Appeal recognized that it may be difficult to identify a valid cause of action in a statement of claim that is verbose, poorly drafted, and fails to use technical language. Despite the presence of such defects, a judge may still be able to discern a reasonable claim from the narrative facts pleaded, even if standard legal terms are missing, provided the required elements of a cause of action are found somewhere in the document. Where the statement of claim simply includes headings that identify alleged torts amid a lengthy recitation of facts, the court has the discretion to construe the pleading against the drafter: *Reisinger v J.C. Akin Architect Ltd.*, 2017 SKCA 11 at para 49, 411 DLR (4th) 687 [*Reisinger*].

[42] As an alternate ground for striking the claim, Ms. Streck relies upon Rule 7-9(2)(b) of *The King's Bench Rules*, contending that the statement of claim is scandalous, frivolous, or vexatious. Each of these objections has a distinct meaning in this context. As explained by Justice Mitchell in *Siemens v Baker*, 2019 SKQB 99 at para 23 [*Siemens*], a pleading is scandalous if it “levels degrading charges or baseless

allegations of misconduct or bad faith against an opposite party”. A pleading is frivolous if it is “plain and obvious” or “beyond reasonable doubt” that the claims it advances are “groundless and cannot succeed”: *Siemens* at para 25; *Yashcheshen v Janssen Inc.*, 2022 SKCA 140 at para 20 [*Janssen*]. A pleading is vexatious if it has been “commenced for an ulterior motive (other than to enforce a true legal claim) or maliciously for the purpose of delay or simply to annoy the defendants”: *Siemens* at para 24; *Janssen* at para 20.

[43] Ms. Streck also submits that the statement of claim should be struck because it is “immaterial, redundant or unnecessarily lengthy”. For a discussion of this ground, see *Shaw v Shaw*, 2020 SKQB 320 at paras 49-50 [*Shaw*], and *Reisinger* at paras 32-39.

[44] For the purpose of determining whether a pleading contravenes the grounds in Rule 7-9(2)(b) to (e), a judge may consider the merits of the claim and the motives of the plaintiff in bringing it, and evidence other than the pleadings is admissible: *Sagon v Royal Bank of Canada* (1992), 105 Sask R 133 at para 18 (CA).

[45] If a deficient statement of claim can be rehabilitated through amendments, a plaintiff should be given leave to do so before the claim is struck: *Teva* at para 43; *Wilson v Saskatchewan Water Security Agency*, 2023 SKCA 16 at paras 19-20, 478 DLR (4th) 170 [*Wilson*]. This is so even if the plaintiff has not expressly applied to amend the pleading: *Thirsk* at para 11; *Wilson* at para 21. A judge can consider extrinsic evidence when deciding whether the plaintiff should be given an opportunity to amend the claim: *Wilson* at para 22. These principles also apply to deficient statements of defence.

(b) Positions of the Parties

[46] Ms. Yashcheshen argued that Ms. Streck's application to strike was deficient because she had not filed a brief of law. She contended that the notice of application, affidavit, and draft order provided insufficient notice to her of the case she has to meet. Counsel for Ms. Streck submitted that she relied upon the reasons of Danyliuk J. in support of her client's application, to which Ms. Yashcheshen took exception since that decision was set aside by the Court of Appeal.

[47] Rule 6-15 of *The King's Bench Rules* governs briefs of law filed in support of interlocutory applications:

Brief of Law

6-15 If a party files a brief of law with respect to an application, the brief:

- (a) must be concise and address the legal aspects of the case and not the factual aspects; and
- (b) must be served on every other party to the application and filed at least 2 days before the designated chamber day to which the application is made returnable.

Rule 6-15 is permissive and Ms. Streck was not obliged to file a brief of law, although one would have been helpful to the court.

[48] As the plaintiff has had the decision of Danyliuk J. since 2018, she cannot complain that anything therein takes her by surprise. In any event, the pleadings have changed substantially since my colleague's decision, and I am required to consider the statement of claim afresh in light of the Court of Appeal's decision in *Yashcheshen CA*.

[49] Despite its late filing, I have also considered Ms. Yashcheshen's brief of law in making this decision.

(c) Overview of the Second Amended Statement of Claim

[50] The original statement of claim, issued on June 1, 2018, was 10 pages and 55 paragraphs. Materials on the court file imply that the plaintiff amended her claim at some point, but an amended statement of claim was never filed. A second amended statement of claim [Claim], filed on March 31, 2023, is 28 pages long and consists of 106 paragraphs, as well as numerous subparagraphs. In the Claim, some new paragraphs are underlined but others are not. The Claim should show both sets of changes to the original claim, with underlining and double underlining (or some other distinct formatting) to set off each round of amendments from the original words: see Rule 3-73 of *The King's Bench Rules*.

[51] Despite the changes, the following summary of the original claim by Kalmakoff J.A. in *Yashcheshen CA* at para 16 is still a good starting point:

[16] ... In broad terms, she alleged that a person named Jenna Streck had falsely accused her of criminal harassment which, in turn, led to an investigation by the RCMP that Ms. Yashcheshen claimed was negligently conducted and resulted in the instigation of malicious criminal proceedings. Ms. Yashcheshen also alleged that the officers involved in the investigation improperly disseminated her private medical information. She claimed that underpinning all of this was the fact that the officers were biased against her because of her involvement with and use of cannabis.

[52] All of Ms. Yashcheshen's allegations against the AGC and three RCMP members [Former Defendants] remain in the Claim, even though she has discontinued the action against them.

[53] Regarding the remaining defendant, Ms. Yashcheshen alleges Ms. Streck falsely accused her of criminal harassment to the RCMP. Ms. Yashcheshen further alleges that these false accusations were negligent, intentionally inflicted emotional distress on her, defamed her, and constituted civil fraud.

[54] Paragraphs 14, 15, and 18 allege that Ms. Streck made three complaints to police about Ms. Yashcheshen. The first complaint, made on or about April 16, 2015, alleged that Ms. Yashcheshen had “made false rumours” about Ms. Streck. The Claim alleges that Ms. Streck provided to police falsified photos of text messages from Ms. Yashcheshen as evidence of the harassment.

[55] Several paragraphs, including paragraphs 15, 16, and 19, allege that Ms. Streck asked Ms. Yashcheshen to stop texting her and police advised Ms. Streck to block Ms. Yashcheshen’s communications.

[56] Paragraph 20 appears to claim that Ms. Streck neglected to block “nonsensical” text messages that she (Ms. Streck) sent to herself in order to fabricate a criminal harassment complaint against Ms. Yashcheshen. However, the paragraph also alleges that the messages were “clearly not intended for” Ms. Streck, and Ms. Streck could have blocked them. This confusing paragraph contradicts itself.

[57] Paragraph 21 alleges that the RCMP and Ms. Streck committed a hate crime by equating Ms. Yashcheshen’s “rambling messages” with mental illness.

[58] Paragraph 29 alleges that Ms. Streck made a statement to police on or about August 30, 2015, in which she said that she had not blocked communications from the plaintiff.

[59] Paragraph 30 alleges that Ms. Streck exploited the RCMP by making false accusations against Ms. Yashcheshen to harass her due to her association with medical cannabis.

[60] Paragraph 31 alleges that Ms. Streck was advised by an RCMP member that Ms. Yashcheshen might be suffering from mental health issues and the RCMP might need to involve Ms. Yashcheshen’s parents and she might need a mental health

assessment. Ms. Streck was allegedly “on board” with these suggestions and was maliciously colluding with the RCMP.

[61] Paragraph 41 alleges that Ms. Streck contacted the RCMP to make more reports and to inquire about the terms of a peace bond that the plaintiff was subject to. The Claim alleges that Ms. Streck was maliciously seeking to have Ms. Yashcheshen prosecuted for breaching the conditions of the peace bond.

[62] At paragraph 55, the Claim alleges that Ms. Streck and RCMP members intentionally inflicted emotional distress on the plaintiff. For Ms. Streck’s part, she is alleged to have made false statements under oath, destroyed evidence, and communicated false information to police.

[63] Paragraphs 56 to 63 set out the plaintiff’s allegations that Ms. Streck defamed her. Paragraphs 64 to 70 allege Ms. Yashcheshen took steps to mitigate her damages by warning Ms. Streck that she was slandering her. Paragraphs 84 to 87 make general allegations of harm the plaintiff suffered because of the defendants’ defamatory statements. As drafted, these paragraphs could include Ms. Streck.

[64] Paragraphs 88 and 89 allege that Ms. Streck is liable to the plaintiff for civil fraud, the tort of deceit, and negligence.

[65] Paragraphs 95 and 96 contain further allegations that Ms. Streck lied to police in order to harm the plaintiff.

[66] Paragraph 105 alleges that all defendants, presumably including Ms. Streck, acted with malice toward her.

[67] Paragraph 106 summarizes the damages the plaintiff seeks against all of the defendants.

[68] The foregoing is a distillation of Ms. Yashcheshen's allegations against Ms. Streck, to the extent that I can understand them. I have omitted allegations against the Former Defendants and have not mentioned parts of the Claim that are best described as editorializing.

(d) Reasonable Cause of Action Analysis

[69] Ms. Yashcheshen purports to allege numerous causes of action against Ms. Streck, which are organized under the following headings: "negligence/intentional infliction of emotional distress", "defamation & slander", and "civil fraud, tort of deceit and negligence". I will consider each cause of action in turn, first by summarizing the elements that must be pled and then by analysing whether the Claim contains sufficient particulars of those elements. As explained above, the court assumes the facts alleged in the Claim are true unless they are manifestly incapable of being proven.

1. Negligence

[70] The elements of negligence were summarized in *Mustapha v Culligan of Canada Ltd.*, 2008 SCC 27 at para 3, [2008] 2 SCR 114 [*Mustapha*]:

[3] A successful action in negligence requires that the plaintiff demonstrate (1) that the defendant owed him a duty of care; (2) that the defendant's behaviour breached the standard of care; (3) that the plaintiff sustained damage; and (4) that the damage was caused, in fact and in law, by the defendant's breach. ...

[71] Psychological disturbance that is "serious and prolonged and rise[s] above the ordinary annoyances, anxieties and fears that people living in society routinely, if sometimes reluctantly, accept," will amount to personal injury sufficient to establish damage: *Mustapha* at para 9. Other mental states, such as upset and anxiety, will not. The plaintiff's damage will not have been caused in law by the defendant if that damage is too remote: *Mustapha* at para 3.

[72] The Claim mentions “negligence” as a part of a heading in two places, where the term is included along with other causes of action. The Claim alleges that Ms. Streck has been Ms. Yashcheshen’s neighbour for more than twenty years but does not articulate the existence of a special relationship between them which might ground a duty of care. There is no allegation that Ms. Streck owed the plaintiff a duty of care, nor does the Claim suggest that Ms. Streck breached the standard of care. Reading the Claim as a whole, the plaintiff is alleging intentional wrongdoing by Ms. Streck, not negligent conduct.

[73] As noted above, a statement of claim that names a tort in a heading but fails to allege facts that meet the basic components of that tort does not disclose a reasonable cause of action: *Reisinger* at para 49.

[74] I conclude that the Claim does not allege a reasonable cause of action in negligence.

2. *Intentional Infliction of Emotional Distress*

[75] Intentional infliction of mental suffering or harm is a recognized tort. The tort has three principal elements: (a) conduct against the plaintiff that was flagrant or outrageous; (b) the conduct against the plaintiff was intended to cause harm; and (c) the conduct resulted in visible and provable mental injury to the plaintiff: *McLean v McLean*, 2019 SKCA 15 at para 80, [2019] 5 WWR 67 [*McLean*].

[76] The Claim refers to “emotional distress”. Damage that must be proven to establish this tort is not “mere psychological upset” but rather serious mental injury. This was explained in *Saadati v Moorhead*, 2017 SCC 28 at para 37, [2017] 1 SCR 543:

[37] ... as *Mustapha* makes clear, mental *injury* is not proven by the existence of mere psychological *upset*. While, therefore, tort law protects persons from negligent interference with their mental health,

there is no legally cognizable right to happiness. Claimants must, therefore, show much more — that the disturbance suffered by the claimant is “serious and prolonged and rise[s] above the ordinary annoyances, anxieties and fears” that come with living in civil society (*Mustapha*, at para. 9). To be clear, this does not denote distinct legal treatment of mental injury relative to physical injury; rather, it goes to the prior legal question of what constitutes “mental injury”. Ultimately, the claimant’s task in establishing a mental injury is to show the requisite degree of disturbance (although not, as the respondents say, to show its classification as a recognized psychiatric illness).

[Emphasis in original]

[77] An allegation that the plaintiff has suffered mental distress and anxiety is sufficient to satisfy the third element of the tort of intentional infliction of mental distress “in an absolutely bare bones manner”: *McLean* at para 81.

[78] The Claim alleges that Ms. Streck made several false complaints to the RCMP about criminal harassment by the plaintiff at paragraphs 14, 15, 16, 18, 19, 20, 30, 41, and 55. The Claim alleges that Ms. Streck provided falsified evidence to the RCMP and made false statements under oath in furtherance of her false allegations at paragraphs 15, 18, 55(h) – (k), 88, 89, and 96. These allegations, if proven, could satisfy the first element of the tort: conduct against the plaintiff that was flagrant or outrageous.

[79] The Claim alleges that the defendants, including Ms. Streck, knew or should have known that their actions would aggravate Ms. Yashcheshen’s medical condition and prolong her illness: paragraph 17. The second element of the tort – conduct intended to cause harm – is alleged.

[80] Finally, the Claim alleges that Ms. Streck’s conduct aggravated the plaintiff’s Crohn’s disease, causing her emotional distress: paragraphs 17 and 55(c) and (d).

[81] Although the particulars of this cause of action are scattered through the Claim, they are present. Accordingly, it is not plain and obvious that the claim for

intentional infliction of emotional distress is bound to fail. Of course, much more would need to be proven at trial for this allegation to succeed: see, e.g., *Khan v Bujold*, 2023 ONSC 6618 at paras 78-105.

3. *Defamation*

[82] The Claim alleges defamation. The elements of a successful defamation claim were summarized in *Grant v Torstar Corp.*, 2009 SCC 61 at para 28, [2009] 3 SCR 640:

[28] A plaintiff in a defamation action is required to prove three things to obtain judgment and an award of damages: (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person; (2) that the words in fact referred to the plaintiff; and (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff. ... The plaintiff is not required to show that the defendant intended to do harm, or even that the defendant was careless. The tort is thus one of strict liability.

[83] It is not required that the statement of claim sets out verbatim the alleged defamatory statement. However, the statement of claim must identify the defamatory communication with sufficient precision and particularity so that the defendant is able to understand the case he or she must meet. As explained by Chief Justice Richards in *Hope v Gourlay*, 2015 SKCA 27 at para 25, 457 Sask R 43:

[25] A plaintiff must, of course, identify the exact words at the root of a claim for defamation if that is possible. But, when it is not, a claim might still be allowed to stand if the pleading nonetheless identifies the offending communication with sufficient precision and particularity that the defendant knows the case against him or her and is able to plead to it and prepare his or her defence. Any assessment in this regard must be undertaken with an appreciation for the fact that, in a defamation action, the words said to be defamatory are the very heart of the plaintiff's claim. The defendant should not be required to shoot at a fuzzy or a moving target.

See also *Wilson* at paras 17-32.

[84] Paragraph 56 sets out 13 instances of statements Ms. Streck is alleged to have made about Ms. Yashcheshen. Each allegation begins with the phrase, “Under *The Libel and Slander Act...*”. *The Libel and Slander Act*, RSS 1978, c L-14, does not create a statutory cause of action and these words are unnecessary verbiage. Ignoring the introductory words, I will review each alleged defamation separately:

(a) Paragraph 56(a): “...the defendant made false statements that the Plaintiff committed a serious crime of criminal harassment”. This pleading is deficient. It does not provide sufficient details of the words spoken, to whom they were spoken, when, and where.

(b) Paragraph 56(b): “... the defendant used the words against the plaintiff, ‘Yashcheshen is also spreading a false rumour that Streck accused Matthew Alie of drugging and raping Streck’ to the RCMP, on April 17, 2015, which is an accusation that is untrue”. It is unlikely that Ms. Streck spoke about herself in the third person to the RCMP, although many of the alleged statements in paragraph 56 read this way. Despite this, the paragraph does claim that Ms. Streck made a statement about Ms. Yashcheshen to the RCMP that would tend to lower Ms. Yashcheshen’s reputation in the eyes of a reasonable person.

(c) Paragraph 56(c): “...the defendant used slanderous words against the plaintiff, *verbatim*, ‘Yashcheshen continuing to contact her with text messages, and she has asked her to stop’, on June 7, 2015”. This statement does not have an obvious defamatory meaning. However, I understand from paragraphs 58 and 71 of the Claim that the plaintiff alleges this communication, and others, was defamatory by innuendo and the “sting” was that the defendant was a stalker and harasser. A second problem is

that the person to whom the statement was communicated is not identified.

(d) Paragraph 56(d): "... the defendant used slanderous words against the plaintiff, 'Streck blocked Yashcheshen's number', which was said to the RCMP on November 15, 2015". Again, the sting appears to be that the plaintiff was a stalker and harasser.

(e) Paragraph 56(e): "the defendant used slanderous words against the plaintiff, 'This may be over a guy or something. Yashcheshen told a guy I met that I had an STD, Yashcheshen said it because she wanted to get back at me or something' to the RCMP, on November 30, 2015, which was made with knowledge that it was untrue". This allegation contains all the elements of defamation.

(f) Paragraph 56(f): "...the defendant used slanderous words against the plaintiff, 'Streck blocked her number then Yashcheshen started emailing through text messaging', to the RCMP, on November 30, 2015, which was made with knowledge that it was untrue to expose the Plaintiff to hatred, contempt, or ridicule". See my comment regarding paragraph 56(d).

(g) Paragraph 56(g): "... the defendant used slanderous words against the plaintiff, 'Streck blocked Yashcheshen's number but she found a way to get text messages to Streck through email', which was said to the RCMP on November 12, 2015". My comment regarding paragraph 56(d) applies.

(h) Paragraph 56(h): "... the defendant used slanderous words against the plaintiff, "Yashcheshen went to the neighbour down the street and

told him that Streck is telling people he drugged and raped her’, to the RCMP, on November 30, 2015”. This allegation contains all the elements of defamation.

(i) Paragraph 56(i): “... the defendant used slanderous words against the plaintiff, ‘She does not know what Yashcheshen is capable of, she felt like Yashcheshen was watching her’, to the RCMP, on November 30, 2015”. This allegation contains all the elements of defamation.

(j) Paragraph 56(j): “... the defendant used slanderous words against the plaintiff, ‘Yashcheshen calling her a pig, whore stuff like that’, to the RCMP, on November 30, 2015”. This allegation contains all the elements of defamation.

(k) Paragraph 56(k): “...the defendant used slanderous words against the plaintiff, ‘Streck is concerned that Yashcheshen will find out where she lives’, to the RCMP, on November 30, 2015”. This allegation contains all the elements of defamation.

(l) Paragraph 56(l): “... the defendant used slanderous words against the plaintiff, ‘Yashcheshen is a social worker’ in her video statement to the RCMP, on November 30, 2015. This slanderous statement was defamatory of the plaintiff in her profession and was calculated to be so.” Elsewhere Ms. Yashcheshen describes herself as a “future lawyer, legal scholar/professor, or editor” (paragraph 60 of the Claim). I fail to see how Ms. Streck incorrectly referring to the plaintiff as a social worker would tend to lower her reputation in the eyes of a reasonable person.

(m) Paragraph 56(m): “... the defendant used slanderous words against the plaintiff, ‘Streck has raised concerns about the stability of

Yashcheshen', to the RCMP, on August 31, 2016, which Streck has a reckless disregard for the truth when making this accusation". As with many of the allegations of defamation, these are not Ms. Streck's own words but rather summarize what she said to the RCMP. However, the allegation is sufficiently precise to permit the defendant to know the case she must meet.

[85] Paragraphs 58 and 61 of the Claim allege that Ms. Streck's statements are defamatory in their natural and ordinary meaning or by way of numerous innuendo meanings, which are listed as part of paragraph 58 and include the implication that Ms. Yashcheshen is a harasser or a stalker and has a history of harassing communications. When paragraphs 56(c), (d), (f), (g) and (h) are read in combination with the alleged innuendo meanings set out in paragraphs 58 and 61, it is not plain and obvious that these instances of alleged defamation are bound to fail at trial. Further, the alleged instances of defamation should not only be examined on their own but also all together. Some statements that seem innocuous by themselves may have a defamatory sting when read with others.

[86] In short, when paragraphs 56, 58, and 61 are read together, the particulars of the plaintiff's action in defamation are sufficiently clear, except for the allegations in subparagraphs 56(a) and (l).

[87] Finally, Ms. Streck asserted that her statements to police are all protected by the defence of qualified privilege. This defence is not pleaded in the statement of defence. In any event, a defence of qualified privilege can be defeated by proof of malice: *Duke v Puts*, 2004 SKCA 12 at paras 63 and 94, [2004] 6 WWR 208. The plaintiff has alleged actual malice and, as discussed above, I am required to assume that allegation is true on this application.

4. *Civil Fraud or Deceit*

[88] The tort of civil fraud or deceit was summarized by the Supreme Court of Canada in *Bruno Appliance and Furniture, Inc. v Hryniak*, 2014 SCC 8 at para 21, [2014] 1 SCR 126 [*Bruno Appliance*], as follows:

[21] From this jurisprudential history, I summarize the following four elements of the tort of civil fraud: (1) a false representation made by the defendant; (2) some level of knowledge of the falsehood of the representation on the part of the defendant (whether through knowledge or recklessness); (3) the false representation caused the plaintiff to act; and (4) the plaintiff's actions resulted in a loss.

[89] The false statement must have induced the plaintiff to act upon it: *Bruno Appliance* at para 19.

[90] The Claim alleges that Ms. Streck made a false representation to the RCMP that Ms. Yashcheshen was criminally harassing her. The Claim further alleges that Ms. Streck knew that the allegation was false, in that Ms. Streck knew Ms. Yashcheshen was not harassing her “but was upset the Plaintiff unfriended her on Facebook”: Claim at para. 88. At paragraph 89 of the Claim, the plaintiff set out additional particulars of Ms. Streck's false representations and her knowledge of their falsity or reckless disregard for their truth. The list is repetitive, confusing, and improperly includes references to court decisions. Despite this, paragraphs 88 and 89 do provide particulars of statements allegedly made by Ms. Streck which she knew to be false.

[91] As for the third and fourth elements of the tort of civil fraud, the Claim states at paragraph 88: “The plaintiff acted upon the representation (contacted the RCMP which resulted in s. 264 charges for Cst. Pieterse and Cst. Nash); and 5. The plaintiff suffered damage from so doing (the loss of the victim's services position and reputation with the RCMP, and professionally)”. This passage appears to say that Cst. Pieterse and Cst. Nash were charged with offences under s. 264 of the *Criminal Code*,

RSC 1985, c C-46. Elsewhere, the Claim alleges that Ms. Yashcheshen was falsely accused and charged with criminal harassment.

[92] An action for civil fraud requires that the plaintiff was induced by the false representation to act and doing so resulted in a loss to her. Ms. Yashcheshen alleges that she acted on the representation by contacting the RCMP, which resulted in criminal harassment charges “for Cst. Pieterse and Cst. Nash”. Assuming these alleged facts to be true, as I am required to do on this application, I am unable to see a causal connection between Ms. Streck’s alleged false representations, Ms. Yashcheshen contacting the RCMP, two members of the RCMP being charged, and Ms. Yashcheshen suffering a loss. On its face the Claim is incoherent.

[93] In her brief of law, Ms. Yashcheshen explains that she was arrested by police on the criminal harassment charges after she reached out to the RCMP herself. Even if I assume that Ms. Yashcheshen intended to allege in the Claim that she – not the two RCMP members – was charged with criminal harassment, the claim for civil fraud remains incoherent. Ms. Yashcheshen was not induced by the criminal harassment complaint to contact the RCMP, which led to her being charged. Rather, the RCMP had made the decision to charge her and, when she contacted police, she was arrested. The required causal link is missing.

[94] I am unable to see how Ms. Yashcheshen’s core complaint – that she was the victim of a false criminal harassment allegation – can be the basis of an action for civil fraud.

5. Conclusion on Reasonable Cause of Action

[95] I have determined that the Claim contains sufficient allegations of fact regarding the plaintiff’s claims in defamation and intentional infliction of mental

suffering. However, the claims in negligence and civil fraud are bound to fail and they are struck without leave to amend.

(e) Scandalous, Frivolous, or Vexatious

[96] I will now consider Ms. Streck's submission that the Claim is scandalous, frivolous, or vexatious. Briefly, it is not plain and obvious that the allegations of defamation and intentional infliction of mental suffering are scandalous. Whether these claims constitute degrading or baseless allegations requires findings of fact and credibility that are beyond the scope of this application.

[97] Ms. Yashcheshen's claims in defamation and intentional infliction of mental suffering are not frivolous. The requisite elements have been pleaded and it is not plain and obvious that those causes of action are groundless and cannot succeed.

[98] Finally, despite Ms. Yashcheshen's history of commencing unmeritorious proceedings and this Court's designation of her as a vexatious litigant, I am not persuaded that her claims in defamation and intentional infliction of mental suffering are vexatious in this case. Ms. Streck argued that the plaintiff seeks revenge for the criminal harassment complaint, but nothing in the Claim itself shows that Ms. Yashcheshen was driven by malice or some ulterior motive to commence the action.

[99] As discussed above, Ms. Streck has put in evidence an email between her counsel and Ms. Yashcheshen, in which Ms. Yashcheshen said, "... litigation is purely hobby for me ...". Ms. Streck argues that this shows the Claim is vexatious. The context was Ms. Yashcheshen refusing to agree to adjourn the defendant's application to strike to a particular date because she had other obligations, and she does not get paid for litigation. Ms. Yashcheshen's explanation that all she meant was that litigation is not her occupation is plausible. I do not draw the conclusion that referring to litigation as a

hobby proves that Ms. Yashcheshen just started the Claim to harass Ms. Streck in retribution for the criminal complaint.

(f) Immaterial, Redundant or Unnecessarily Lengthy

[100] During argument, Ms. Yashcheshen acknowledged that substantial portions of the Claim could be deleted given the discontinuance against the Former Defendants.

[101] In *Amendt v Canada Life Assurance Co.*, 1999 CanLII 12560 (Sask QB) at para 19, Goldenberg J. concluded that a statement of claim which was unnecessarily prolix and contained innumerable, immaterial, and irrelevant comments had to be struck as weeding out superfluous passages would be impossible. Similarly, Robertson J. held in *Shaw* at para 50 that it was not possible to strike parts of the statement of claim and leave a coherent pleading.

[102] Rule 13-8(1) of *The King's Bench Rules* requires that a pleading contains only a statement in summary form of the material facts on which the plaintiff relies for her claim, but not the evidence by which the facts are to be proved. Rule 1-3 requires the parties to identify the real issues in dispute in order to facilitate the quickest and most efficient means of resolving the claim at the least expense.

[103] I have taken pains in this decision to identify, where possible, the elements of discrete causes of action within a thicket of redundant, immaterial, and sometimes incomprehensible statements. I have concluded that the Claim includes some allegations against Ms. Streck that could survive an application to strike.

[104] Although I have given the Claim a generous reading, in its current form it is so replete with irrelevant allegations that it cannot stand. To borrow from Robertson J. again, the weeds choke out any flowers: *Shaw* at para 36. As amended, the Claim is 28 pages and 106 paragraphs. It names five defendants, although Ms. Yashcheshen has

discontinued her claim against four of them. As a result of the discontinuance, at least four-fifths of the content of the Claim is redundant. Virtually all references to the Former Defendants are immaterial except those that provide indispensable context for the claims against Ms. Streck. All references to events involving Ms. Yashcheshen's and Ms. Streck's parents, as well as Ms. Streck's brother, are superfluous. So are references to case law and *The Libel and Slander Act*. References to Ms. Yashcheshen's missing cannabis shipment have nothing to do with the claims against Ms. Streck.

[105] Further, the court's role is not to edit the statement of claim by striking through each unnecessary statement and then rewriting what remains to make a coherent pleading.

[106] Viewing the Claim as a whole, I have concluded that it must be struck entirely because, in its present form, it is riddled with immaterial and redundant allegations, and it is pointlessly lengthy.

(g) Leave to Amend

[107] The remaining question is whether Ms. Yashcheshen should be given another opportunity to amend her pleading so that it complies with this Court's Rules. In *Yashcheshen CA* at para 17, Justice Kalmakoff observed, "With a few minor exceptions, Ms. Yashcheshen's statement of claim in the Saskatoon Action was identical to the Amended Yorkton Claim she had attempted to file in response to the *May 8 Fiat* in the Yorkton Action". Taking into account the Yorkton action, the Claim is the sixth edition of the plaintiff's allegations against Ms. Streck and others regarding the criminal harassment charges. If anything, I am understating the number of times Ms. Yashcheshen has asserted civil claims related to the criminal harassment charges, the related peace bond, and Ms. Yashcheshen's conviction for breaching the peace bond.

[108] I have concluded the Claim includes factual allegations that could support an adequate pleading of defamation and intentional infliction of mental suffering. In my view, I am obliged to give Ms. Yashcheshen a final opportunity to amend the Claim so that it sets out, in summary form only, facts and allegations of law necessary to plead those two causes of action.

(h) Application to Strike Statement of Defence

[109] Given my decision to strike the Claim with leave to amend, it is not necessary for me to decide Ms. Yashcheshen's application to strike the defence at this point. If and when Ms. Yashcheshen serves an amended statement of claim, Ms. Streck will have an opportunity to serve and file an amended statement of defence.

VI. CONCLUSION

[110] The second amended statement of claim is struck.

[111] The plaintiff shall have 30 days from the date of this decision to serve and file a further amended statement of claim, limited to Ms. Streck. The amendments must correct the deficiencies identified in this decision. If the plaintiff fails to amend the statement of claim within this time limit, the statement of claim shall stand dismissed.

[112] Ms. Streck is awarded costs on Column 1.

J.
P.T. BERGBUSCH