

SUPERIOR COURT OF JUSTICE

ONTARIO PROFESSIONAL FIRE
FIGHTERS ASSOCIATION

Plaintiff

– and –

PAUL ATKINSON, COLIN GRIEVE,
PROFESSIONAL FIREFIGHTERS
ADVOCATES INC., SHERWIN H.
SHAPIRO, SHAPIRO LAWYERS
PROFESSIONAL CORPORATION,
FRANCES FURMANOV and FRANCES
FURMANOV PARALEGAL SERVICES

Defendants

Rahool Agarwal and Niklas Holmberg for the Plaintiff

Paul Atkinson and Colin Grieve, acting in person

HEARD: June 18, 2019

DIAMOND J.:

Overview

[1] On March 19, 2019, I was scheduled to hear the plaintiff's motion seeking a *Mareva* injunction against the defendants Paul Atkinson ("Atkinson"), Colin Grieve ("Grieve") and Professional Fire Fighters Advocates Inc. (collectively "the Atkinson defendants"). As a term of a successful adjournment requested from the Atkinson defendants, I gave oral reasons in support of interim *Mareva* injunction relief to continue until the plaintiff's motion was heard on its merits. That interim *Mareva* injunction was issued on an interim basis to, *inter alia*, allow Grieve the opportunity to bring a motion under Rule 7 of the *Rules of Civil Procedure* seeking an order designating himself as a party under disability.

[2] On May 29, 2019, Grieve's motion was dismissed, and the terms of the interim *Mareva* injunction were continued against the Atkinson defendants. The plaintiff's motion was scheduled to be heard on its merits on June 18, 2019.

[3] The plaintiff's motion did proceed before me on June 18, 2019. Both Atkinson and Grieve (who continue to be self-represented in this proceeding) were present at the hearing, but on advice from their criminal counsel, declined to make submissions on the merits of the plaintiff's motion while the criminal proceeding against them was still outstanding.

[4] As I advised all parties present during the hearing, despite the lack of submissions from the Atkinson defendants, the plaintiff nevertheless bore the onus of satisfying the Court that interlocutory *Mareva* injunction was warranted. While I did not receive any submissions from the Atkinson defendants, I did have the opportunity to review their responding material, and the evidence given by Atkinson at his cross-examination (Grieve did not attend his scheduled cross-examination despite being properly served).

[5] At the conclusion of argument, I took my decision under reserve.

Mareva injunctions

[6] The jurisprudence is clear that to obtain a *Mareva* injunction, a moving party must satisfy all of the following elements from the governing test:

- (a) the presence of a strong *prima facie* case (typically rooted in fraud or other intentional misconduct);
- (b) proof of irreparable harm if the injunctive relief is not granted;
- (c) the balance of convenience favouring the granting of the *Mareva* injunction;
- (d) the responding party having assets within the province of Ontario; and
- (e) proof of a serious risk that the responding party will remove property or dissipate assets before the granting of a potential judgment.

[7] Elements (a), (b) and (c) are lifted from the traditional test for an injunction. Element (e) can be proven by drawing an appropriate inference of the risk of dissipation of assets based upon the presence of numerous factors. As held by Justice Strathy (as he then was) in *Sibley & Associates LP v. Ross* 2011 ONSC 2951 (CanLII):

“Rather than carve out an “exception” for fraud, however, it seems to me that in cases of fraud, as in any case, the *Mareva* requirement that there be risk of removal or dissipation can be established by inference, as opposed to direct evidence, and that inference can arise from the circumstances of the fraud itself, taken in the context of all the surrounding circumstances. It is not necessary to show that the defendant has bought an air ticket to Switzerland, has sold his house and has cleared out his bank accounts. It should be sufficient to show that all the circumstances, including the circumstances of the fraud itself, demonstrate a serious risk that the defendant will attempt to dissipate assets or put them beyond the reach of the plaintiff.”

[8] As held by Justice Faieta in *Amphenol Canada Corp. v. Sunadram* 2019 ONSC 849 (CanLII), while a moving party must always satisfy the requirement to show a strong *prima facie* case, proof of the risk of removal/dissipation of assets may, in the appropriate case, be inferred from the surrounding circumstances of a responding party’s misconduct. The list of relevant factors for the Court’s consideration is not exhaustive, and includes (a) a responding party’s

attempt to “cover up his/her tracks”, (b) a responding party’s attempt to destroy, hide or alter evidence, and (c) any conduct demonstrating the traditional “badges of fraud”.

Decision

[9] The plaintiff’s theory of its case is summarized at paragraphs 10 through 13 of my Reasons for Decision reported at *OPFFA v. Paul Atkinson et al* 2018 ONSC 1207 (CanLII):

“In this proceeding, the plaintiff seeks recovery of \$3,000,000.00, joint and severally against all defendants, for numerous causes of action: breach of fiduciary duty, breach of trust, false misrepresentation, conspiracy, inducing breach of contract, intentional interference with economic relations, unjust enrichment and passing off.

In summary, the plaintiff alleges that the defendants misappropriated funds that deceased firefighters’ family members intended to donate to the plaintiff. The subject funds were allegedly paid either (a) out of proceeds from Workplace Safety and Insurance Board (“WSIB”) awards granted as compensation for the premature deaths of those firefighters, or (b) for the purpose of assisting other families seeking WSIB benefits. These alleged voluntary donations were given to and/or earmarked for the plaintiff pursuant to Letters of Agreement signed by the family members, but not signed by the plaintiff.

The payments were ultimately to be used to fund the plaintiff’s Retiree’s Cancer Claim Fund (“the RCCF”). The plaintiff states that the RCCF was used to support the pursuit of retiree claims, as well as research, education and lobbying with respect to the recognition of occupational diseases for compensation purposes.

For his part, Shapiro is alleged to have provided the use of his trust account serving as the financial vehicle through which Atkinson and Grieve misappropriated the payments. It is further alleged that Shapiro allowed Atkinson and Grieve to use his status as a licensed lawyer to lend legitimacy to the scheme.

According to an investigation carried out by the plaintiff, the misappropriated donated funds were either provided by the families to Atkinson or Grieve directly, or pursuant to a signed direction in favour of Shapiro. The alleged scheme resulted in substantial funds intended for the plaintiff but directed to and received by the defendants.”

[10] From my review of the record, there is a strong *prima facie* case of various tortious and fraudulent conduct on the part of the Atkinson defendants, including false misrepresentation, breach of fiduciary duty, breach of trust and conspiracy.

[11] The plaintiff tendered affidavit evidence from five former WSIB claimants and their family members who were represented by Atkinson and/or Grieve at the relevant time periods. Those

affiants (who were not cross-examined) gave evidence that Atkinson and Grieve informed them that the affiants' donations were being made to the plaintiff for the purpose of helping others similarly situated families. At no time did those affiants ever believe that their money was being provided to Atkinson and/or Grieve personally, or to corporations they controlled. I agree with the plaintiff that the evidence from these affiants is reliable and credible. They have no relationship with each other, but at the same time all have a similar story to tell.

[12] The evidence from these affiants, including their supporting documentation, shows a strong *prima facie* case that Atkinson and Grieve used their positions as co-chairs of the plaintiff's Occupational Disease Committee to meet WSIB claimants, secure donations under false misrepresentations, and then divert those donations to Atkinson and Grieve through their company Professional Fire Fighters Advocates Inc. (which bears a similar abbreviation to the plaintiff, i.e. OPFFA).

[13] Within the supporting documentation, there are "copycat" letter agreements prepared by Atkinson and Grieve on PFFA letterhead directing payment to PFAI. The affiants gave evidence that they were told by Atkinson and/or Grieve that their donations were being sent to the plaintiff, but when any claimants asked why payment was being made to "PFAI" or "PFFA", they were told by Atkinson and Grieve that the money would first go to PFAI/PFFA and then to the plaintiff.

[14] Of note, those payments to PFFA/PFAI were in excess of the plaintiff's own approved percentage contributions to be sought from WSIB claimants. The PFFA letter agreements were drafted with similar, if not identical, wording to original letter agreements prepared by the plaintiff.

[15] In addition, some of the PFFA letter agreements appear to have been created after the fact. While the PFFA letter agreements are dated in December 2005, they state that retainer funds were being paid together with applicable HST. The HST tax did not take effect in Ontario until 2010.

[16] The plaintiff also tendered expert evidence which concluded that various documents (including PFFA invoices) were fabricated after the fact, including evidence that the typeface font used in those documents was not even invented as of the date of those documents. On cross-examination, Atkinson in fact admitted that he "transplanted" a signature from a WSIB claimant from an official OPFFA letter agreement to the document created by Atkinson and/or Grieve.

[17] There is also evidence that Atkinson and Grieve appear to have attempted to "cover their tracks" by requesting WSIB claimants to sign confidentiality agreements in order to "silence them." When the plaintiff began an investigation into the alleged misconduct of Atkinson and Grieve, both Atkinson and Grieve requested WSIB claimants to destroy or hide the relevant documents in their possession.

[18] Element (d) of the governing test has been satisfied by the plaintiff. There is no dispute that the Atkinson defendants own assets within the province of Ontario, and I shall have more to say about those assets below.

[19] With respect to the plaintiff's obligation to show irreparable harm, and that the balance of convenience favours the plaintiff, in my view those two elements are intertwined with element (e), namely the plaintiff's obligation to show a serious risk that the Atkinson defendants will remove property or dissipate assets before any potential judgment may be obtained.

[20] There is evidence in the record that both Atkinson and Grieve appear to have sold or transferred their respective interests in residential property with a view to defeating creditors, and in particular the plaintiff.

[21] Grieve formerly owned a Hamilton property in joint tenancy with his spouse. On December 10, 2015, mere days after the plaintiff delivered a demand letter to the Atkinson defendants requesting repayment of allegedly misappropriated funds, Grieve transferred his interest in the Hamilton to his spouse as sole owner for \$2.00. The evidence in the record confirms both Grieve and his spouse still live in the property, although Grieve testified that he and his spouse were going through material difficulties in 2015, and came to a separation agreement which included the transfer of the Hamilton property to his spouse. Grieve also testified that he and his spouse subsequently reconciled for some period of time and did not proceed with the divorce, but they are both now separated living under the same roof. There is no affidavit from Grieve's spouse to confirm any of this evidence, nor are there any documents in Grieve's responding affidavit to support his evidence.

[22] Atkinson owned a Newmarket property in joint tenancy with his spouse, but that property was sold on August 16, 2018 (during the currency of this proceeding, and approximately six months after the plaintiff gave notice of its intention to proceed with its motion for a *Mareva* injunction). Once the Newmarket property was sold, Atkinson gave all of his proceeds to his spouse, and she subsequently purchased a house in her own name. For his part, Atkinson testified that the Newmarket property was sold due to he and his spouse separating in 2018. Atkinson gave evidence that both he and his spouse have retained separate family law counsel and intend to formally divorce. The terms of Atkinson's separation agreement with his spouse are "still being finalized", although they have agreed in principle that his spouse was to retain the proceeds of the sale for the Newmarket property. Once again, there is no affidavit from Atkinson's spouse nor are there any documents submitted by Atkinson to support his evidence.

[23] I agree with the plaintiff that Atkinson and Grieve both took objective steps to divest their personal assets in the face of the plaintiff seeking to recover what the plaintiff claims to be proceeds of a fraudulent scheme. The timing of both transfers to their respective spouses seems suspicious, and the lack of any supporting documentation or evidence from their respective spouses compounds the suspect nature of these transfers.

[24] While I have found the presence of actual evidence of dissipation, I would have also drawn the necessary inferences of a risk of dissipation based upon the above transfers and the strong *prima facie* case of the Atkinson defendants' misconduct including the creation of forged documents and the clandestine nature of the steps to pursue what appears to be a fraudulent scheme.

[25] As held by Justice Penny in *East Guardian SPC v. Mazur* [2014] O.J. No. 5377 (S.C.J.), "the normal basis for irreparable harm in cases of this kind is that, if the respondent's assets are not secured, there will be no way for the applicant to collect on a money judgment." This principle is apposite to the case before me.

[26] I find the balance of convenience weighs in favour of the plaintiff as the Atkinson defendants have not effectively identified any harm they will suffer if the *Mareva* injunction is continued on an interlocutory basis. I also agree with the plaintiff that, in any event, both the

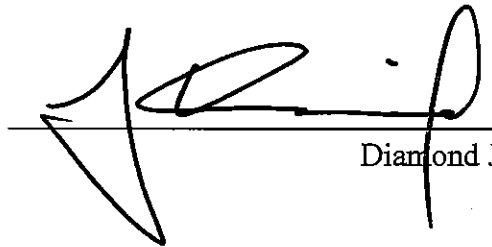
interim relief previously granted, and the interlocutory relief sought gives the Atkinson defendants the ability to vary the order and unlock assets for legal fees and reasonable living expenses.

[27] For all these reasons, I grant the *Mareva* injunction sought by the plaintiff, and I am prepared to sign the draft order provided by the plaintiff at the conclusion of the hearing (a copy of which is attached to this Endorsement as Schedule "A"). This draft order carves out previously agreed upon monthly amounts to each of Atkinson and Grieve for reasonable living expenses, and further permits them the opportunity to apply on at least 24 hours' notice to the plaintiff for a further variance seeking any additional funds for the purpose of increased ordinary living expenses, legal advice or representation (including their criminal lawyers).

Costs

[28] The plaintiff has been successful on this motion. If the parties cannot agree upon the costs of this motion, they may serve and file written costs submissions (totaling no more than five pages including a Costs Outline) in accordance with the following schedule;

- (a) the plaintiff may serve and file its costs submissions within 10 business days of the release of this Endorsement; and
- (b) the Atkinson defendants shall thereafter have an additional 10 business days from the receipt of the plaintiff's submissions to file their responding costs submissions.



Diamond J.

Released: June 25, 2019

Schedule "A"

Court File No. CV-16-550104

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE J.F. DIAMOND

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TUESDAY, THE 18TH
DAY OF JUNE, 2019

B E T W E E N:

(Court Seal)

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

Plaintiff

and

PAUL ATKINSON, COLIN GRIEVE, PROFESSIONAL FIREFIGHTERS
ADVOCATES INC., SHERWIN H. SHAPIRO, SHAPIRO LAWYERS
PROFESSIONAL CORPORATION, FRANCES FURMANOV and FRANCES
FURMANOV PARALEGAL SERVICES

Defendants

A N D B E T W E E N:

PAUL ATKINSON, COLIN GRIEVE and PROFESSIONAL FIREFIGHTERS
ADVOCATES INC.

Plaintiffs by Counterclaim

and

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION
and CARMEN SANTORO

Defendants to the Counterclaim

ORDER

NOTICE

If you, the Defendants Atkinson, Grieve and Professional Firefighters Advocates Inc. (the **PFAI Defendants**), disobey this order you may be held to be in contempt of court and may be imprisoned, fined or have your assets seized.

Any other person who knows of this order and does anything which helps or permits the PFAI Defendants to breach the terms of this Order may also be held to be in contempt of court and may be imprisoned, fined or have their assets seized.

THIS MOTION, made on notice by the Plaintiff (Defendant to the Counterclaim), Ontario Professional Fire Fighters' Association (the "OPFFA") for a Mareva injunction was heard this day at 393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Plaintiff's Amended Motion Record dated December 4, 2018, the PFAI Defendants' Motion Record dated January 8, 2019, the Plaintiff's Reply Motion Record dated January 14, 2019, the Plaintiff's Supplementary Reply Motion Record dated January 31, 2019, the Plaintiff's Factum dated March 11, 2019, the Plaintiff's Brief of Authorities dated March 11, 2019, the Plaintiff's Transcript Brief dated March 11, 2019, the Factum of Paul Atkinson and PFAI, and on hearing the submissions of the parties,

1. **THIS COURT ORDERS** that the Amended and Restated Interim Order dated May 29, 2019, and attached to this Order as Appendix "A", is hereby revoked and replaced by this Order, which shall supersede and replace the May 29, 2019 Order.

MAREVA INJUNCTION

2. **THIS COURT ORDERS** that the PFAI Defendants and their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this injunction, are restrained from directly or indirectly, by any means whatsoever:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any assets of the PFAI Defendants, wherever situate, including but not limited to the assets and accounts listed in Schedule "A" hereto;

- (b) instructing, requesting, counselling, demanding, or encouraging any other person to do so; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.

3. **THIS COURT ORDERS** that paragraph 2 applies to all of the assets of the PFAI Defendants whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order, the assets of the PFAI Defendants include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The PFAI Defendants are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

4. **THIS COURT ORDERS** that if the total value free of charges or other securities of the PFAI Defendants' assets in Ontario exceeds \$5,000,000, the PFAI Defendants may sell, remove, dissipate, alienate, transfer, assign, encumber, or similarly deal with them so long as the total unencumbered value of the assets of the PFAI Defendants in Ontario remains above \$5,000,000.

ORDINARY LIVING EXPENSES

5. **THIS COURT ORDERS** that from the personal account of Mr. Atkinson, \$5,000.00 is permitted to be released on a monthly basis from any bank account frozen and covered by the scope of this Order. That sum includes the final and interim family support payments being made on a monthly basis (\$1,800), plus approximately \$3,200.00 a month in ordinary living expenses.

6. **THIS COURT ORDERS** that with respect to the corporation Paul Atkinson Holdings Inc., there shall be an exception to the freezing of that account in the amount of \$4,100.00 in monthly expenses.

7. **THIS COURT ORDERS** that from the personal account of Mr. Grieve, \$4,525 is permitted to be released on a monthly basis from any bank account frozen and covered by the scope of this Order.

8. **THIS COURT ORDERS** that, to the extent that the supporting documentation has not already been provided, Mr. Atkinson and Mr. Grieve are to provide to counsel for the Plaintiff supporting documentation to support the fixed expense components of the amounts referred to in paragraphs 5 and 6 for Mr. Atkinson and paragraph 7 for Mr. Grieve, within ten (10) days of being served with this Order.

9. **THIS COURT ORDERS** that Mr. Atkinson and Mr. Grieve will give the particulars of the branch locations for the corporate accounts of PFAI, Paul Atkinson Holdings Inc. and, Colin Grieve Holdings Inc. and their personal accounts to counsel for the Plaintiff when they provide the verification of expenses referred to in paragraph 8 above, and counsel for the Plaintiff may provide notice of this Order to those branches.

10. **THIS COURT ORDERS** that the PFAI Defendants prepare and provide to counsel for the Plaintiff within 10 days of the date of service of this Order, a sworn statement describing the nature, value and location of his assets worldwide, whether in his own name or not and whether solely or jointly owned.

11. **THIS COURT ORDERS** that the PFAI Defendants submit to examinations under oath within 30 days of the delivery by the PFAI Defendants of the sworn statements referenced in paragraph 10 above.

12. **THIS COURT ORDERS** that if the provision of any of the information is likely to incriminate the PFAI Defendants, they may be entitled to refuse to provide it, but are recommended

to take legal advice before refusing to provide the information. Wrongful refusal to provide the information referred to in paragraph 9 herein is contempt of court and may render the PFAI Defendants liable to be imprisoned, fined, or have their assets seized.

13. **THIS COURT ORDERS** that in addition to the exceptions set out in paragraphs 5, 6, and 7 above, any of the PFAI Defendants may apply for an order on at least 24 hours notice to the Plaintiff specifying additional funds that they may be entitled to spend on ordinary living expenses or legal advice and representation.

THIRD PARTIES

14. **THIS COURT ORDERS** any financial institutions which hold accounts (including loans, lines of credit, or other debt instruments) on behalf of the PFAI Defendants (the "Banks"), including any accounts in the name of Paul Atkinson Holdings Inc. or Colin Grieve Holdings Inc., to forthwith freeze and prevent any removal or transfer of monies or assets held in connection with any such account until further Order of the Court.

15. **THIS COURT ORDERS** that the Banks forthwith disclose and deliver up to the Plaintiff any and all records held by the Banks concerning the assets and accounts of the PFAI Defendants, Paul Atkinson Holdings Inc. or Colin Grieve Holdings Inc., including the existence, nature, value and location of any monies or assets or credit, wherever situated, held by the Banks on behalf of the PFAI Defendants, Paul Atkinson Holdings Inc. or Colin Grieve Holdings Inc.

16. **THIS COURT ORDERS** Linda Fernandes to forthwith prevent the sale of the property in her name at 210 Old Yonge Street, Aurora, Ontario until further Order of the Court.

17. **THIS COURT ORDERS** Nancy Grieve to forthwith prevent the sale of the property in her name at 24 Dolman Street, Hamilton, Ontario until further Order of the Court.

ALTERNATIVE PAYMENT OF SECURITY INTO COURT

18. **THIS COURT ORDERS** that this Order will cease to have effect if the PFAI Defendants provide security by paying the sum of \$5,000,000 into Court, and the Accountant of the Superior Court of Justice is hereby directed to accept such payment.

VARIATION, DISCHARGE OR EXTENSION OF ORDER

19. **THIS COURT ORDERS** that anyone served with or notified of this Order may apply to the Case Management Judge, Justice J.F. Diamond, at any time to vary or discharge this Order, on four (4) days notice to the Plaintiff.

20. **THIS COURT ORDERS** that terms of this Order may be varied at any time with the consent of the Parties and that orders made pursuant to paragraph 13 above may be made on the consent of the Plaintiff and the PFAI Defendant seeking an order for the release of additional funds.

(Signature of Judge)

RCP-E 59A (July 1, 2007)

SCHEDULE "A"

1. Any funds held in trust to the credit or benefit of the PFAI Defendants, such trust accounts held by Gary Stortini, Alan Gold, Ricardo Federico, Gardiner Roberts LLP and Frances Furmanov, or any other current or former counsel to the PFAI Defendants.
2. 24 Dolman Street, Hamilton, Ontario.
3. 249 Collings Avenue, Bradford, Ontario.
4. 413 Colborne Street, Bradford, Ontario.
5. 210 Old Yonge Street, Aurora, Ontario.

Appendix "A"

Court File No. CV-16-550104

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE J.F. DIAMOND

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WEDNESDAY, THE 29TH
DAY OF MAY, 2019

BETWEEN:



ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

Plaintiff

and

PAUL ATKINSON, COLIN GRIEVE, PROFESSIONAL FIREFIGHTERS
ADVOCATES INC., SHERWIN H. SHAPIRO, SHAPIRO LAWYERS
PROFESSIONAL CORPORATION, FRANCES FURMANOV and FRANCES
FURMANOV PARALEGAL SERVICES

Defendants

AND BETWEEN:

PAUL ATKINSON, COLIN GRIEVE and PROFESSIONAL FIREFIGHTERS
ADVOCATES INC.

Plaintiffs by Counterclaim

and

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION
and CARMEN SANTORO

Defendants to the Counterclaim

AMENDED AND RESTATED INTERIM ORDER

NOTICE

If you, the Defendants Atkinson, Grieve and Professional Firefighters Advocates Inc. (the PFAI Defendants), disobey this order you may be held to be in contempt of court and may be imprisoned, fined or have your assets seized.

Any other person who knows of this order and does anything which helps or permits the PFAI Defendants to breach the terms of this Order may also be held to be in contempt of court and may be imprisoned, fined or have their assets seized.

THIS MOTION, made by the Plaintiff (Defendant to the Counterclaim), Ontario Professional Fire Fighters' Association (the "OPFFA") for a Mareva injunction was to be heard this day at 393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Plaintiff's Amended Motion Record dated December 4, 2018, the PFAI Defendants' Motion Record dated January 8, 2019, the Plaintiff's Reply Motion Record dated January 14, 2019, the Plaintiff's Supplementary Reply Motion Record dated January 31, 2019, the Plaintiff's Factum dated March 11, 2019, the Plaintiff's Brief of Authorities dated March 11, 2019, the Plaintiff's Transcript Brief dated March 11, 2019, the Factum of Paul Atkinson and PFAI, and on hearing the submissions of the parties and on reading the consent of the Parties,

1. **THIS COURT ORDERS** that the interim order granted by this Court on March 19, 2019, and attached to this Order as Appendix "A", is hereby amended and restated in accordance with this Order and that the provisions of this Order supersede and replace the March 19, 2019 order.

ADJOURNMENT

2. **THIS COURT ORDERS** that the Plaintiff's motion is adjourned to June 18, 2019 (unless otherwise ordered by the Court), subject to the terms of this Order.

MAREVA INJUNCTION

3. **THIS COURT ORDERS** that the PFAI Defendants and their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this injunction, are restrained from directly or indirectly, by any means whatsoever:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any assets of the PFAI Defendants, wherever situate, including but not limited to the assets and accounts listed in Schedule "A" hereto;
- (b) instructing, requesting, counselling, demanding, or encouraging any other person to do so; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.

4. **THIS COURT ORDERS** that paragraph 4 applies to all of the assets of the PFAI Defendants whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order, the assets of the PFAI Defendants include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The PFAI Defendants are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

5. **THIS COURT ORDERS** that if the total value free of charges or other securities of the PFAI Defendants' assets in Ontario exceeds \$5,000,000, the PFAI Defendants may sell, remove, dissipate, alienate, transfer, assign, encumber, or similarly deal with them so long as the total unencumbered value of the assets of the PFAI Defendants in Ontario remains above \$5,000,000.

ORDINARY LIVING EXPENSES

6. **THIS COURT ORDERS** that from the personal account of Mr. Atkinson, \$5,000.00 is permitted to be released on a monthly basis from any bank account frozen and covered by the scope of this Order. That sum includes the final and interim family support payments being made on a monthly basis (\$1,800), plus approximately \$3,200.00 a month in ordinary living expenses.

7. **THIS COURT ORDERS** that with respect to the corporation Paul Atkinson Holdings Inc., there shall be an exception to the freezing of that account in the amount of \$4,100.00 in monthly expenses.

8. **THIS COURT ORDERS** that from the personal account of Mr. Grieve, \$4,525 is permitted to be released on a monthly basis from any bank account frozen and covered by the scope of this Order.

9. **THIS COURT ORDERS** that Mr. Atkinson and Mr. Grieve are to provide to counsel for the Plaintiff supporting documentation to support the fixed expense components of the amounts referred to in paragraphs 5 and 6 for Mr. Atkinson and paragraph 7 for Mr. Grieve, within ten (10) days.

10. **THIS COURT ORDERS** that Mr. Atkinson and Mr. Grieve will give the particulars of the branch locations for the corporate accounts of PFAI, Paul Atkinson Holdings Inc. and, Colin Grieve Holdings Inc. and their personal accounts to counsel for the Plaintiff when they provide the verification of expenses referred to in paragraph 8 above, and counsel for the Plaintiff may provide notice of this Order to those branches.

11. **THIS COURT ORDERS** that in addition to the exceptions set out in paragraphs 5, 6, and 7 above, any of the PFAI defendants may apply for an order on at least 24 hours notice to the Plaintiff specifying additional funds that they may be entitled to spend on ordinary living expenses or legal advice and representation.

THIRD PARTIES

12. **THIS COURT ORDERS** Linda Fernandes to forthwith prevent the sale of the property in her name at 210 Old Yonge Street, Aurora, Ontario until further Order of the Court.

13. **THIS COURT ORDERS** Nancy Grieve to forthwith prevent the sale of the property in her name at 24 Dolman Street, Hamilton, Ontario until further Order of the Court.

ALTERNATIVE PAYMENT OF SECURITY INTO COURT

14. **THIS COURT ORDERS** that this Order will cease to have effect if the PFAI Defendants provide security by paying the sum of \$5,000,000 into Court, and the Accountant of the Superior Court of Justice is hereby directed to accept such payment.

VARIATION, DISCHARGE OR EXTENSION OF ORDER

15. **THIS COURT ORDERS** that anyone served with or notified of this Order may apply to the Case Management Judge, Justice J.F. Diamond, at any time to vary or discharge this Order, on four (4) days notice to the Plaintiff.

16. **THIS COURT ORDERS** that terms of this Order may be varied at any time with the consent of the Parties;

COSTS

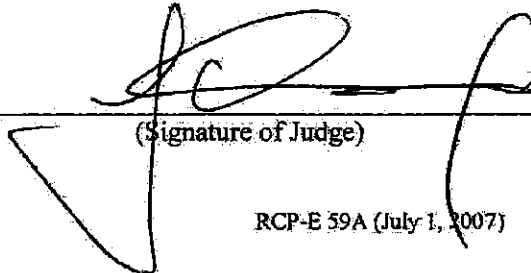
17. **THIS COURT ORDERS** that costs of the March 19, 2019 attendance are reserved to the hearing of the Plaintiff's motion referred to at paragraph 1 above.

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(Signature of Judge)
RCP-E 59A (July 1, 2007)

SCHEDULE "A"

1. Any funds held in trust to the credit or benefit of the PFAI defendants, such trust accounts held by Gary Stortini, Alan Gold, Ricardo Federico, Gardiner Roberts LLP and Frances Furmanov, or any other current or former counsel to the PFAI defendants.
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3. 249 Collings Avenue, Bradford, Ontario.
4. 413 Colborne Street, Bradford, Ontario.
5. 210 Old Yonge Street, Aurora, Ontario.

Appendix "A"

Court File No. CV-16-550104

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE J.F. DIAMOND

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TUESDAY, THE 19TH
DAY OF MARCH, 2019

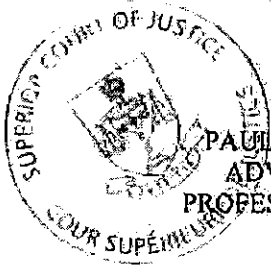
BETWEEN:

(Court Seal)

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

Plaintiff

and



PAUL ATKINSON, COLIN GRIEVE, PROFESSIONAL FIREFIGHTERS
ADVOCATES INC., SHERWIN H. SHAPIRO, SHAPIRO LAWYERS
PROFESSIONAL CORPORATION, FRANCES FURMANOV and FRANCES
FURMANOV PARALEGAL SERVICES

Defendants

AND BETWEEN:

PAUL ATKINSON, COLIN GRIEVE and PROFESSIONAL FIREFIGHTERS
ADVOCATES INC.

Plaintiffs by Counterclaim

and

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION
and CARMEN SANTORO

Defendants to the Counterclaim

INTERIM ORDER

NOTICE

If you, the Defendants Atkinson, Grieve and Professional Firefighters Advocates Inc. (the **PFAL Defendants**), disobey this order you may be held to be in contempt of court and may be imprisoned, fined or have your assets seized.

Any other person who knows of this order and does anything which helps or permits the PFAI Defendants to breach the terms of this Order may also be held to be in contempt of court and may be imprisoned, fined or have their assets seized.

THIS MOTION, made by the Plaintiff (Defendant to the Counterclaim), Ontario Professional Fire Fighters' Association (the "OPFFA") for a Mareva injunction was to be heard this day at 393 University Avenue, Toronto, Ontario, M5G 1E6.

ON READING the Plaintiff's Amended Motion Record dated December 4, 2018, the PFAI Defendants' Motion Record dated January 8, 2019, the Plaintiff's Reply Motion Record dated January 14, 2019, the Plaintiff's Supplementary Reply Motion Record dated January 31, 2019, the Plaintiff's Factum dated March 11, 2019, the Plaintiff's Brief of Authorities dated March 11, 2019, the Plaintiff's Transcript Brief dated March 11, 2019, the Factum of Paul Atkinson and PFAI, and on hearing the submissions of the parties,

ADJOURNMENT

1. **THIS COURT ORDERS** that the Plaintiff's motion is adjourned to May 13, 2019 (unless otherwise ordered by the Court), subject to the terms of this Order.
2. **THIS COURT ORDERS** that any motion under Rule 7 of the *Rules of Civil Procedure* for relief designating Colin Grieve a party under a disability shall proceed before Justice Diamond on April 15, 2019 for a half day. (413)
and appointing a litigation guardian
3. **THIS COURT ORDERS** that the deadline for Mr. Grieve to serve and file his materials in support of the Rule 7 motion is April 4, 2019.

MAREVA INJUNCTION

4. **THIS COURT ORDERS** that the PFAI Defendants and their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this injunction, are restrained from directly or indirectly, by any means whatsoever:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any assets of the PFAI Defendants, wherever situate, including but not limited to the assets and accounts listed in Schedule "A" hereto;
- (b) instructing, requesting, counselling, demanding, or encouraging any other person to do so; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.

5. **THIS COURT ORDERS** that paragraph 4 applies to all of the assets of the PFAI Defendants whether or not they are in their own name and whether they are solely or jointly owned. For the purpose of this order, the assets of the PFAI Defendants include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The PFAI Defendants are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

6. **THIS COURT ORDERS** that if the total value free of charges or other securities of the PFAI Defendants' assets in Ontario exceeds \$5,000,000, the PFAI Defendants may sell, remove,

dissipate, alienate, transfer, assign, encumber, or similarly deal with them so long as the total unencumbered value of the assets of the PFAI Defendants in Ontario remains above \$5,000,000.

ORDINARY LIVING EXPENSES

7. **THIS COURT ORDERS** that from the personal account of Mr. Atkinson, \$3,800.00 is permitted to be released on a monthly basis from any bank account frozen and covered by the scope of this Order. That sum includes the final and interim family support payments being made on a monthly basis (\$1,800), plus approximately \$2,000.00 a month in ordinary living expenses.

8. **THIS COURT ORDERS** that with respect to the corporation Paul Atkinson Holdings Inc., there shall be an exception to the freezing of that account in the amount of \$4,100.00 in monthly expenses.

9. **THIS COURT ORDERS** that Mr. Atkinson is to provide to counsel for the Plaintiff supporting documentation to support the fixed expense components of the amounts referred to in paragraphs 7 and 8 above, ^{forthwith} ~~within ten (10) days~~. (21)

10. **THIS COURT ORDERS** that Mr. Atkinson will give the particulars of the branch locations for the corporate accounts of PFAI and Paul Atkinson Holdings Inc. and his personal accounts to counsel for the Plaintiff when he provides the verification of expenses referred to in paragraph 6 above, and counsel for the Plaintiff may provide notice of this Order to those branches.

11. **THIS COURT ORDERS** that in addition to the exceptions set out in paragraphs 7 and 8 above, any of the PFAI defendants may apply for an order on at least 24 hours notice to the Plaintiff specifying additional funds that they may be entitled to spend on ordinary living expenses or legal advice and representation.

THIRD PARTIES

12. **THIS COURT ORDERS** Linda Fernandes to forthwith prevent the sale of the property in her name at 210 Old Yonge Street, Aurora, Ontario until further Order of the Court.

13. **THIS COURT ORDERS** Nancy Grieve to forthwith prevent the sale of the property in her name at 24 Dolman Street, Hamilton, Ontario until further Order of the Court.

ALTERNATIVE PAYMENT OF SECURITY INTO COURT

14. **THIS COURT ORDERS** that this Order will cease to have effect if the PFAI Defendants provide security by paying the sum of \$5,000,000 into Court, and the Accountant of the Superior Court of Justice is hereby directed to accept such payment.

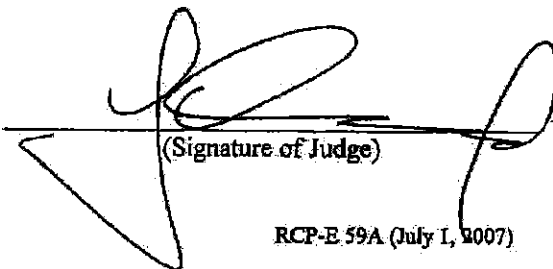
VARIATION, DISCHARGE OR EXTENSION OF ORDER

15. **THIS COURT ORDERS** that anyone served with or notified of this Order may apply to the Case Management Judge, Justice J.F. Diamond, at any time to vary or discharge this Order, on four (4) days notice to the Plaintiff.

COSTS

16. **THIS COURT ORDERS** that costs of the March 19, 2019 attendance are reserved to the hearing of the Plaintiff's motion referred to at paragraph 1 above.

ENTERED AT / INSCRIPT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:
APR 03 2019


(Signature of Judge)

RCP-E 59A (July 1, 2007)

PAR

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SCHEDULE "A"

1. Any funds held in trust to the credit or benefit of the PFAI defendants, such trust accounts held by Gary Stortini, Alan Gold, Ricardo Federico, Gardiner Roberts LLP and Frances Furmanov, or any other current or former counsel to the PFAI defendants.
2. 24 Dolman Street, Hamilton, Ontario.
3. 249 Collings Avenue, Bradford, Ontario.
4. 413 Colborne Street, Bradford, Ontario.
5. 210 Old Yonge Street, Aurora, Ontario.

ONTARIO PROFESSIONAL FIRE FIGHTERS'
ASSOCIATION

Plaintiff

PAUL ATKINSON et al.

Plaintiffs by Counterclaim

-and- PAUL ATKINSON et al.

Defendants

-and- ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION et
al.

Defendants to the Counterclaim

Court File No. CV-16-550104

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

ORDER

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Ontario Professional Fire Fighters' Association and the
Defendant to the Counterclaim, Carmen Santoro

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Plaintiff

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Defendants to the Counterclaim

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT
TORONTO**

AMENDED AND RESTATED INTERIM ORDER

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ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

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CITATION: OPFFA v. Paul Atkinson et al, 2019 ONSC 3877
COURT FILE NO.: CV-16-00550104
DATE: 20190625

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

ONTARIO PROFESSIONAL FIRE FIGHTER'S
ASSOCIATION

Plaintiff

- and -

PAUL ATKINSON, COLIN GRIEVE, PROFESSIONAL
FIREFIGHTERS ADVOCATES INC., SHERWIN H.
SHAPIRO, SHAPIRO LAWYERS PROFESSIONAL
CORPORATION, FRANCES FURMANOV and
FRANCES FURMANOV PARALEGAL SERVICES

Defendants

ENDORSEMENT

Diamond J.

Released: June 25, 2019