

SUPREME COURT OF NOVA SCOTIA
Citation: *Abdelkader v. Khalil*, 2023 NSSC 245

Date: 20230731
Docket: 518711
Registry: Halifax

Between:

Nashwa Abdelhamid Mohamed Abdelkader

Plaintiff

v.

Nermine Adel Khalil

Defendant

Judge: The Honourable Justice Gail L. Gatchalian

Heard: July 25, 2023, in Halifax, Nova Scotia

Oral Decision: July 28, 2023

Counsel: Alex Smith and Angela Lee, for the Plaintiff Nermine Adel Khalil, representing herself

By the Court:

Introduction

[1] This is a motion for summary judgment on the evidence brought by the Plaintiff, Nashwa Abdelhamid Mohamed Abdelkader, in a defamation action brought by Ms. Abdelkader against the Defendant, Nermine Adel Khalil.

[2] Ms. Abdelkader is an Egyptian national. She currently lives in Cairo. She has had a 25-year career with Egypt's State Information Service, serving both in Egypt and as a diplomat in embassies abroad. Her current title within the State Information Service is Undersecretary, Head of the Central Department of the Media for Europe, the Americas, Asia and Australia. In this position, she regularly liaises with foreign press and heads of government departments on behalf of the Egyptian government, and works with various Egyptian organizations, companies, and diaspora groups abroad to promote and uphold the Egyptian government's image. She reports to Mr. Diaa Rashwan, Chairman of the State Information Service. She formerly reported to Ambassador Ayman El-Kaffas. Although she is a high-ranking official in the field of media and communications within the Egyptian government, she is not a public figure. She is an apolitical civil servant.

[3] Ms. Khalil lives in Halifax, Nova Scotia. She is a Canadian citizen. She is a former Egyptian national.

[4] In the Amended Statement of Claim, Ms. Abdelkader claims that, on June 24, 2022, Ms. Khalil posted a video on Ms. Khalil's YouTube channel, in which

Ms. Khalil, speaking Egyptian Arabic, talks about Mr. Rashwan and Mr. El-Kaffas, and makes the following allegedly defamatory statements about Ms. Abdelkader, translated into English:

(a) “Are you not the one who was going as your mistress with Nashwa Abdelhamid?”

(b) “She was not even working until she was returned from her last trip because of mismanagement and incompetence.”

(c) “yet you stood up issuing her with a reward of 700 or 900 thousand Egyptian pounds”

(d) “Isn’t she your mistress?”

(e) “Wasn’t she initially going as mistress with Ambassador El-Kaffas?”

[5] Ms. Abdelkader seeks summary judgment with respect to the allegedly defamatory statements about her in the June 24, 2022 video.

[6] Ms. Abdelkader claims general, special, and aggravated damages, a mandatory injunction requiring Ms. Khalil to take all reasonable steps to cause to be removed from the Internet any and all defamatory statements and videos that Ms. Khalil has posted, and a permanent injunction to restrain Ms. Khalil from any further publication of defamatory statements against Ms. Abdelkader.

[7] Ms. Khalil filed a Notice of Defence and Statement of Defence on Form 4.05B, the only substantive content being as follows:

- Ms. Khalil wrote “yes” under “4. This party denies all other allegations of fact in the statement of [claim].”
- Ms. Khalil wrote as follows after “material facts of any further defence the

party will raise at trial”: “this whole case isn’t fair she is hired by the egyptian [sic] government and is threatening [sic] my life I have lots of threats.”

[8] Ms. Abdelkader filed two affidavits in support of the Motion for Summary Judgment, and one solicitor’s affidavit.

[9] Ms. Khalil did not file an affidavit. However, in a previous appearance, the Honourable Justice Denise Boudreau commissioned a document with attachments as Ms. Khalil’s evidence, and adjourned the motion to be heard before me on July 25, 2023.

[10] Ms. Abdelkader has been represented by legal counsel throughout this proceeding. Ms. Khalil has been representing herself.

[11] The first issue to determine is whether this court has jurisdiction over the matter.

[12] With respect to the merits of the motion for summary judgment on the evidence, I must bear in mind the following:

1. The first question to ask is whether there is a genuine issue of material fact. If the answer is “yes,” the motion fails.
2. If the answer is “no,” the second question is whether there is a question of law that requires determination.
3. If the answer to questions 1 and 2 are both “no,” summary judgment must issue.
4. The onus is on Ms. Abdelkader to show that there is no genuine issue of material fact. A material fact is one that would affect the result.

5. If there is no genuine issue of material fact, but there is a question of law, the third question is whether the defence has a real chance of success. The responding party, in this case, Ms. Khalil, must show a real chance of success. If Ms. Khalil fails to show a real chance of success, summary judgment issues to dismiss her defence.
6. If the answer to this third question is yes, the fourth question is whether I should exercise the discretion to determine the issue of law.
7. In a motion for summary judgment on the evidence, the pleadings serve only to indicate the issues, and the subjects of a genuine issue of material fact and a question of law depend on the evidence presented: Civil Procedure Rule 13.04(4). A party who wishes to contest the motion must provide evidence in favour of the party's claim or defence: Civil Procedure Rule 13.04(5).

See *Civil Procedure Rule 13.04* and *Shannex Inc. v Dora Construction Ltd.*, 2016 NSCA 89 at paras.34 and 36.

[13] In order to determine whether Ms. Abdelkader should be granted summary judgment, I will consider the following issues:

1. Does this court have jurisdiction to hear the case?
2. Is there a genuine issue of material fact?
3. Is there a question of law?
4. Is Ms. Abdelkader entitled to summary judgment with respect to paragraph 7 of her Statement of Claim?
5. Should damages be awarded, and if so, in what amount?
6. Should a mandatory and/or permanent injunction be granted?

Jurisdiction

[14] Part I of the *Court Jurisdiction and Proceedings Transfer Act*, S.N.S. 2003, c.2, provides a complete code for the determination of the territorial competence of a court: see *IBC Advanced Technologies, Inc. v. Ucore Rare Metals Inc.*, 2019

NCSA 80 at para.57.

[15] Section 2(h) of the *Act* defines “territorial competence” as follows:

2(h) “territorial competence” means the aspects of a court’s jurisdiction that depend on a connection between

(i) the territory or legal system of the state in which the court is established, and

(ii) a party to a proceeding in the court or the facts on which the proceeding is based.

[16] Section 3(2) of the *Act* makes clear that the territorial competence is to be determined by reference to Part I of the *Act*:

Territorial competence of the court

3(2) The territorial competence of a court is to be determined solely by reference to this Part.

[17] Section 4 of the *Act* outlines when a court has territorial competence:

Proceedings against persons

4. A court has territorial competence in a proceeding that is brought against a person only if

...

(b) during the course of the proceeding that person submits to the court's jurisdiction;

...

(d) that person is ordinarily resident in the Province at the time of the commencement of the proceeding; or

(e) there is a real and substantial connection between the Province and the facts on which the proceeding against that person is based.

[18] Section 11 of the *Act* creates a rebuttable presumption of a real and

substantial connection. The subsections applicable to this motion are:

11. Without limiting the right of the plaintiff to prove other circumstances that constitute a real and substantial connection between the Province and the facts on which a proceeding is based, a real and substantial connection between the Province and those facts is presumed to exist if the proceeding

...

(g) concerns a tort committed in the Province;

...

(i) is a claim for an injunction ordering a party to do or refrain from doing anything in the Province,

[19] I am satisfied that this court has jurisdiction over this case. Ms. Khalil lives in Nova Scotia. In *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17, a unanimous court held that a defendant may always be sued in a court of the jurisdiction in which he or she is domiciled or resident. In addition, Ms. Khalil filed a Notice of Defence and Statement of Defence, submitting to the court's jurisdiction.

Furthermore, there is a real and substantial connection between the Province and the facts on which the proceeding against Ms. Khalil is based: it concerns a tort committed in the Province, and is a claim for an injunction ordering Ms. Khalil to refrain from doing something in the province.

[20] Furthermore, I am not satisfied that a court of another state is a more appropriate forum in which to hear the proceeding: see s.12(1) of the *Act*. First, it would be less convenient and more expensive for Ms. Khalil should this proceeding be heard in Egypt, which is the only other potentially reasonable alternative: see s.12(2)(a) of the *Act*. Furthermore, as Ms. Khalil lives in Nova

Scotia, enforcement of an eventual judgment would occur in Nova Scotia: see s.12(2)(e) of the *Act*. The other factors in s.12(2) of the *Act* do not weigh in favour of another forum being more appropriate.

Genuine Issue of Material Fact?

[21] The three elements of defamation are:

- (1) The impugned words are defamatory, in that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person.
- (2) The words in fact refer to the plaintiff.
- (3) The words are published, meaning that they were communicated to at least one person other than the plaintiff.

See *Grant v. Torstar Corp.*, [2009] 3 S.C.R. 640 at para.28

[22] In paragraph 7 of the Statement of Claim, Ms. Abdelkader claims that Ms. Khalil falsely and maliciously broadcasted the allegedly defamatory statements.

[23] In paragraph 8 of the Statement of Claim, Ms. Abdelkader states that the allegedly defamatory statements, in their natural and ordinary meaning, mean that Ms. Abdelkader was engaged in an illicit affair with her bosses, received her positions by engaging in inappropriate sexual relationships, is incompetent at her job, has mismanaged her department and accepted large sums of money without merit and for improper reasons.

[24] In paragraphs 9 and 10 of the Statement of Claim, Ms. Abdelkader claims that several people contacted her about the video, including two people located in Canada whom she met in a professional capacity and who are members of the

Egyptian community in Canada.

[25] In paragraphs 25 and 26 of the Statement of Claim, Ms. Abdelkader claims that the allegedly defamatory statements are plainly false and calculated to lower her professional and personal reputation, and that the words complained of are inherently malicious.

[26] Ms. Abdelkader's evidence is that:

- She viewed the video, that Ms. Khalil mentions Ms. Abdelkader's first and middle name, and that in the video, Ms. Khalil makes the allegedly defamatory statements. Ms. Abdelkader attached a certified translation of the relevant portion of the video to her first Affidavit.
- The statements complained of are untrue.
- She received phone calls from ten individuals, including two from people in Canada, whom she knew in her professional capacity, and the two individuals in Canada – Mr. Hany Toufelos and Mr. Emad Al Saedy - asked her whether the contents of the video were true.
- Ms. Khalil's YouTube channel had over 100,000 subscribers and the video was being circulated on the Internet by others.
- Ms. Khalil's original YouTube channel has been taken down, but the video and a shorter excerpt of the video focussing on the allegedly defamatory statements about Ms. Abdelkader, had been re-posted 42 times as of mid-August, 2022.
- The impugned statements have caused damage to her personal and professional reputation.

[27] Ms. Khalil's commissioned evidence does not address the allegations made in paragraph 7 of the Statement of Claim. As noted, her Statement of Defence did not plead any defence to defamation.

[28] Ms. Abdelkader's evidence, which is unchallenged, establishes that:

- The impugned words are defamatory because, in their ordinary sense, they would naturally harm and lower Ms. Abdelkader's reputation in the eyes of a reasonable person, and would be expected to expose Ms. Abdelkader to be regarded by a reasonable person with hatred, contempt, ridicule, dislike or disesteem: see *Guergis v. Norvak*, 2013 ONCA 449 at para.37 and *Manson v. John Doe*, 2013 ONSC 628 at para.22.
- The words in fact refer to Ms. Abdelkader.
- The words are published on the Internet, and have been reposted at least 42 times, and therefore were communicated to at least one person other than Ms. Abdelkader.

[29] There are no genuine issues of material fact.

Question of Law?

[30] There is no question of law that requires determination.

Conclusion Regarding Motion for Summary Judgment

[31] Summary judgment must and does issue in favour of Ms. Abdelkader, and her claims in paragraph 7 of her Statement of Claim are allowed. Ms. Khalil has defamed Ms. Abdelkader by making the statements set out in paragraph 7 of the Statement of Claim.

Damages

[32] Ms. Abdelkader seeks:

- General damages of \$150,000
- Aggravated damages in the amount of \$50,000, and
- Punitive damages in the amount of \$50,000.

Additional Facts Relevant to Request for Damages and Injunctive Relief

[33] The following additional facts are relevant to Ms. Abdelkader's request for

damages, the quantum of damages sought, and the injunctive relief sought.

[34] As set out in Ms. Abdelkader's first Affidavit:

1. On or about November 3, 2022, the date that Ms. Khalil was served with the original Statement of Claim, Ms. Khalil posted a video on Telegram, a social media sharing platform, in which Ms. Khalil acknowledges that a lawsuit had been brought against her, names Ms. Abdelkader by her full name, and calls Ms. Abdelkader a "prostitute," a "whore," and states that she will "smack [Ms. Abdelkader] down a la levant and Maghreb."
2. On or about November 8, 2022, Ms. Khalil posted a video to a new YouTube channel in which she refers to Ms. Abdelkader by name, mentions this lawsuit, and calls her a "prostitute."
3. On or about November 11, 2022, Ms. Khalil posted a video on YouTube in which she refers to Ms. Abdelkader by name, and calls her "the whore's daughter."
4. On or about November 12, 2022, Ms. Khalil posted a video on YouTube in which she refers to Ms. Abdelkader and states "The case filed by the prostitute who has her legs spread open for everyone going and coming, as if it was a 'sabil'." Ms. Abdelkader states that, in Arabic, a "sabil" is the word used for a public water fountain in Islamic countries.
5. On or about December 6, 2022, Ms. Khalil posted on her Telegram and Facebook accounts a picture of Ms. Abdelkader and wrote that Ms. Abdelkader was neither a boy nor a girl and that Ms. Khalil would make a cautionary tale out of Ms. Abdelkader and the Egyptian government.
6. On or about January 12, 2023, Ms. Khalil posted on Facebook that she received papers of a lawsuit from Ms. Abdelkader's lawyer, referred to Ms. Abdelkader by name, and described Ms. Abdelkader as the "mistress of Diaan Rashwan."
7. On or about April 1, 2023, Ms. Khalil posted on her Facebook page that she is "fed up with humiliating [Ms. Abdelkader] and [her] bitch lawyer," and that Ms. Abdelkader's lawyers "are crass and pigs just like [her]." Ms. Khalil also wrote "I'm still going to hang you. Just wait."

8. On or about April 7, 2023, Ms. Khalil posted a video on her Facebook page, in which she refers to Ms. Abdelkader by name and calls Ms. Abdelkader a “daughter of the fucking whore,” and that “[e]ven the lawyers you hire have thick skin and are fucking whores just like you.”
9. On or about April 18, 2023, Ms. Khalil posted on Facebook, stating that Ms. Abdelkader looks like a “genderqueer boy”, and is “waiting to organize media coverage of the hearing on the 14th.”
10. On or about April 19, 2023, Ms. Khalil posted on Facebook, referring to Ms. Abdelkader by name and stating that she intends to place Ms. Abdelkader “center stage in front of the world and let the Egyptians know who [she is].”

[35] Ms. Khalil does not, in her commissioned evidence, dispute the above allegations.

[36] I find that all of the above-noted statements that Ms. Khalil published about Ms. Abdelkader on the Internet are defamatory because:

- The words used by Ms. Khalil would tend to lower Ms. Abdelkader’s reputation in the eyes of a reasonable person.
- The words in fact refer to the Ms. Abdelkader.
- The words are published on the Internet.

General Damages

[37] General damages are presumed in a defamation case on the basis that harm automatically and logically follows from the very publication of the false statement: see *Hill v. Church of Scientology*, 1995 CanLII 59 at para.164 and *Manson v. John Doe No.1*, 2013 ONSC 628 at para.26 . To assess the amount of damages, courts may consider:

1. the conduct of the plaintiff,
2. the plaintiff's position and standing,
3. the nature of the defamation,
4. the mode and extent of publication,
5. the absence or refusal of any retraction or apology, and
6. the whole conduct of the defendant before action, after action, and in court at the trial of the action.

See *Hill, supra* at para.182

Conduct of the Plaintiff

[38] I find that Ms. Abdelkader has had no interaction with Ms. Khalil and has only responded to the defamatory comments by commencing this action through legal counsel.

[39] In so finding, I must address what appears, at first glance, to be a contradiction in the evidence about whether the parties know each other.

[40] In her affidavit evidence, Ms. Abdelkader asserts that she does not know and has never met Ms. Khalil or Ms. Khalil's husband or children.

[41] In her commissioned statement, Ms. Khalil asserts that an Egyptian economist "was with me the day I raided the house to find Nashwa Abdel. Al-Qadir is in my room. My bed...with my husband..." and "[w]hen I found Nashwa in my bedroom and I objected, she assaulted me severely. Come on and my ex-husband." Ms. Khalil also asserts that Ms. Abdelkader "helped my ex-husband take my children away from me ..." These statements contradict Ms. Abdelkader's

evidence that she does not know and has never met Ms. Khalil, Ms. Khalil's husband or her children.

[42] The commissioned statement of Ms. Khalil consists of seven typewritten pages with several attachments. These statements that contradict Ms.

Abdelkader's evidence are bare assertions, without any detail. For example, Ms.

Khalil does not provide the name of her husband or ex-husband. It is not clear

whether the husband and ex-husband are the same or different people. The words

"Come on and my ex- husband" are unintelligible. Ms. Khalil does not provide

the location or date of the alleged events. The statements are contradicted later on

in the document, where Ms. Khalil asserts that it was her ex-husband who

assaulted her and beat her when she allegedly found him and Ms. Abdelkader

together. Moreover, these assertions are buried in a seven-page document that is

rife with:

- statements that are irrelevant, for example:
 - Ms. Khalil writes about the son of the Egyptian President, Mahmoud al-Sisi, stating "Mahmoud Al-Sisi is the one who killed Giulio Regine (Italian nationality), who was tortured and had his nails pulled out, and Italy is trying so far with the Egyptian government to extradite him to them."
 - She asserts that she informed Prime Minister Justin Trudeau of "the plot that was being hatched against him through the Canadian intelligence, where the head of the Egyptian intelligence, Abbas Kamel, was going to talk to him when he attended the Climate Conference 27, which was held in Egypt, to force him to silence me..."
- argumentative, for example:

- She asserts that an Egyptian officer tore up her Canadian passport, “[a]nd this is considered an insult to Canada...”;
- speculative, for example,
 - She asserts that Mr. Rashwan is waiting for the outcome of this case, as he wants to make an example of her to the Egyptians;
- scandalous, for example,
 - She asserts that counsel for Ms. Abdelkader is, by writing to Ms. Khalil, “in cahoots with the Egyptian government to threaten the security and safety of Canadian citizens and was trying to force me, in agreement with the Egyptian government, to end my life.”
 - She attached copies of photos to her statement of a dead body that appears to have been beaten, stating that they are photos of an Egyptian economist who was kidnapped, tortured and killed by the Egyptian government.
 - She attached a copy of an email that she appears to have sent to herself on July 3, 2023, in which she says, in part, “ ... I will torture you until you wish death, and at intervals, I will make your end black, and in the heart of Canada, and I will take your pictures, and I will enjoy your torture, let my dogs rape you, cut off your body at a while, and you will release you look like, and you cut off your features, and burn your doubt.”
- Contain inadmissible hearsay, for example:
 - She writes that there is a witness who “gave me all the papers that confirm my words...”

See Waverley (Village) v. Nova Scotia (Acting Minister of Municipal Affairs), 1993 NSSC 71 and *Layes v. Bowes*, 2020 NSSC 345 at paras.21-32, upheld 2021 NSCA 50, application for leave to appeal dismissed, 2022 CanLII 10373 (SCC)

[43] I can only make factual findings based on the admissible evidence before me. Ms. Khalil’s commissioned evidence is, as a whole, fatally flawed. As a result, I give Ms. Khalil’s evidence, as a whole, no weight.

[44] I therefore accept Ms. Abdelkader's evidence that she does not know and has never met Ms. Khalil or Ms. Khalil's husband or children.

Plaintiff's Position and Standing

[45] Ms. Abdelkader is not a public figure, but holds an important senior role in the Egyptian civil service. In her current position, she is required to perform her job with integrity and transparency. She must work with the Egyptian diaspora, which is the target audience of Ms. Khalil's defamatory statements. Ms.

Abdelkader fears that her job may be at risk as a result of Ms. Khalil's defamatory statements. She fears for her own personal safety as a result of the defamation.

The Nature of the Defamation

[46] Based on the nature of the defamatory statements, I agree that Ms. Khalil's defamation has been malicious, with the intent of harming Ms. Abdelkader's professional and personal reputation. The defamatory statements also threaten physical harm to Ms. Abdelkader.

Mode and Extent of the Publication

[47] The defamatory statements have been published and reposted many times on the Internet and are available for anyone in the world to view. The Internet has the extraordinary capacity to replicate the defamatory messages. The defamatory statements, then, have tremendous power to harm Ms. Abdelkader's reputation.

See *Barrick Gold Corp. v. Lopehandia* (2004), 71 O.R. (3d) 416 (C.A.) at

paras.30-34.

Absence or Refusal of any Retraction or Apology

[48] Ms. Khalil has not apologized.

[49] Rather, she has continued her campaign of defamation against Ms. Abdelkader.

Whole Conduct of the Defendant

[50] Since the July 24, 2022 video, and service of the original Statement of Claim, Ms. Khalil has continued to post defamatory and malicious statements on the Internet about Ms. Abdelkader. The defamatory statements are intended to convey that Ms. Abdelkader is immoral or that she has done something immoral and that she is deserving of hatred. Ms. Khalil's statements threaten physical violence against Ms. Abdelkader.

[51] Furthermore, Ms. Khalil has said that she will not stop. During the appearance before Boudreau J., Ms. Khalil stated that she will not stop posting statements about Ms. Abdelkader, and that if there is a court order ordering her to stop, she said that she will leave and do it from somewhere else. Ms. Khalil stated "I'm never going to stop."

Quantum of General Damages

[52] I find that an award of \$100,000 in general damages is an appropriate reflection of the harm done to Ms. Abdelkader, taking into account Ms.

Abdelkader's blameless conduct, her position and standing, the malicious and hateful nature of the defamation, the ubiquitous publication of the false statements, the lack of a retraction or apology from Ms. Khalil, and Ms. Khalil's continued campaign of increasingly harmful defamation and threats of physical violence in the face of this legal proceeding.

[53] Such an award of general damages is consistent with other cases. For example, in *Trout Point Lodge Ltd. v. Handshoe*, 2012 NSSC 245, the Honourable Justice Suzanne Hood awarded \$100,000 each to two individual plaintiffs who had been called dishonest, part of a money laundering scheme, part of a political corruption scandal, and incompetent: see paras.88 and 91. In this case, Ms. Khalil has not only alleged, in her defamatory statements, that Ms. Abdelkader is corrupt and incompetent, but also that she is immoral and deserving of hatred. See also *Manson, supra* at para.26.

Aggravated Damages

[54] Aggravated damages may be awarded where the defendant's conduct has been particularly high-handed, oppressive, insulting, spiteful and malicious, thereby increasing the plaintiff's humiliation and anxiety, and in some cases, fear, arising from the false statements: see *Hill, supra* at para.188.

[55] Ms. Khalil's conduct in publishing the false statements about Ms. Abdelkader has been outrageous, insulting, spiteful and malicious, because of the nature of the defamatory statements themselves, but also because of Ms. Khalil's

continued campaign of defamation against Ms. Abdelkader.

[56] Ms. Abdelkader's evidence is that, as a result of the defamatory statements published by Ms. Khalil, Ms. Abdelkader feels humiliated and she is in a heightened state of anxiety, has difficulty sleeping, and has panic attacks. Ms. Abdelkader feels that there is a real possibility that her job may be at risk because of the defamatory statements, as they include allegations that she has engaged in a sexual relationship with her boss and been rewarded despite incompetence due to the nature of her relationship with her boss. In addition, as an unmarried woman living in a conservative society, Ms. Abdelkader believes that Ms. Khalil's videos and posts containing the defamatory statements jeopardize Ms. Abdelkader's safety.

[57] I award Ms. Abdelkader aggravated damages in the amount of \$50,000, to compensate Ms. Abdelkader for the humiliation, anxiety, and fear about her employment and her safety as a result of the false statements, and to express the indignation of the court.

[58] Such an award of aggravated damages is consistent with other cases. For example, in *Trout Lodge, supra*, Hood J. awarded the individual plaintiffs \$50,000 each in aggravated damages, to express the indignation of the Court: at para.96. See also *Manson, supra* at para.28, where the court relied on the fact that the defendant did not apologize or retract the false statements, and continued to make defamatory posts even in the face of a statement of claim.

Punitive Damages

[59] Ms. Khalil's conduct departs markedly from ordinary standards of decency and is malicious, oppressive and high-handed, and offends the Court's sense of decency. In my view, it requires punishment. See *Whiten v. Pilot Insurance Company*, 2022 SCC 18 at para.94.

[60] In my view, the combined award of general and aggravated damages would be insufficient to achieve the goals of punishment and deterrence: see *Hill, supra* at para.196. Despite being served with the Statement of Claim, and seeing the request for damages, Ms. Khalil continued her defamation campaign against Ms. Abdelkader, which, as discussed, includes threats of physical violence against Ms. Abdelkader. And Ms. Khalil has stated that she will not stop. In addition, her communication with and about counsel has been insulting and profane.

[61] I award Ms. Abdelkader \$25,000 in punitive damages to express the Court's outrage at the egregious conduct of Ms. Khalil: see *Hill, supra* at para.196.

[62] Such an award is consistent with amounts awarded in other cases. For example, in *Trout Point*, Hood J. awarded an additional \$25,000 in punitive damages to each plaintiff, where the defendant continued and re-doubled his defamation about the plaintiffs: at para.98. Hood J. held that the defendant's egregious conduct offended the Court's sense of decency: at para.99. She held that the award of general and aggravated damages was insufficient to properly denounce the actions of the defendant: at para.101.

Permanent and/or Mandatory Injunction

[63] In defamation cases, permanent injunctions will generally be granted where:

- (a) There is a likelihood that the defendant will continue to make public defamatory statements despite the finding that they are liable to the plaintiff for defamation; or
- (b) There is a real possibility that the plaintiff will not receive any compensation, given that enforcement against the defendant of any damage award may not be possible.

See *Trout Point, supra* at para.102, citing *Astley v. Verdun*, 2011 ONSC 3651 at para.21.

[64] Ms. Abdelkader has satisfied both grounds for granting a permanent injunction.

[65] The likelihood of Ms. Khalil continuing to disparage Ms. Abdelkader publicly is high. Ms. Khalil has advised the Court that she intends to continue making defamatory postings about Ms. Abdelkader even if the court orders her to stop.

[66] In an Order dated March 21, 2023, the Honourable Justice Mona Lynch ordered Ms. Khalil to pay \$500 in costs to Ms. Abdelkader in a motion for leave to amend the Statement of Claim. Ms. Khalil has not paid the costs, and has communicated to counsel for Ms. Abdelkader that she will never pay. It is therefore very likely that, despite the awards for damages for defamation, Ms. Abdelkader may not recover those damages.

[67] In the circumstances of this case, it is appropriate and just to order both a permanent injunction and a mandatory injunction as requested by Ms. Abdelkader, given her reputation and position in the Egyptian diaspora, the wide circulation of

the defamatory statements calculated to destroy Ms. Abdelkader's reputation, the strong likelihood that Ms. Khalil will continue to post defamatory statements on the Internet, and the real possibility that Ms. Abdelkader will not be able to enforce the award of damages against Ms. Khalil. See *Trout Lodge, supra* at paras.103-106 and *Astley, supra* at paras.35-46.

Conclusion

[68] The motion for summary judgment brought by Ms. Abdelkader is granted, on the following terms:

- Damages in the following amount:
 - \$100,000 in general damages,
 - \$50,000 in aggravated damages,
 - \$25,000 in punitive damages.
- A mandatory injunction requiring Ms. Khalil to take all reasonable steps to cause to be removed from the Internet any and all false and defamatory statements and videos that Ms. Khalil has posted anywhere on the Internet about Ms. Abdelkader.
- A permanent injunction restraining Ms. Khalil from any further publication of defamatory statements about Ms. Abdelkader.

[69] Counsel for Ms. Abdelkader is to draft and circulate the draft order.

[70] If the parties cannot agree on the costs of this motion, I will receive written submissions within two weeks of this decision.

Gatchalian, J.