

Action No.: 0701-

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

**MALIK ASHRAF, SYED BADIUDDIN SOHARWARDY and AL-MADINAH CALGARY
ISLAMIC ASSEMBLY**

Plaintiffs

and

**AHMED IFTIKHAR, GULAM MUSTAFA, NAEEM BUTT, NAJEEB BUTT, HAJI
RAFIQ, HARRON CHUGHTAI, ROBINA BUTT, SHAGUFTA IFTIKHAR, QASIRA
SHAHEEN and the CONTINENTAL COMMERCE GROUP Inc. carrying on business as
the PAKISTAN POST**

Defendants

STATEMENT OF CLAIM

1. The Plaintiff, the Al-Madinah Calgary Islamic Assembly (hereinafter referred to as the "Assembly") is a Society incorporated pursuant to the *Religious Societies/Cemetery Companies Act*.
2. The Plaintiff, Malik Ashraf ("Ashraf"), is an individual residing in the City of Calgary in the Province of Alberta, carrying on business as a realtor, and was at all material times the President of the Committee of the Assembly (the "Committee").
3. The Plaintiff, Syed Badiuddin Soharwardy ("Soharwardy") is an individual residing in the City of Calgary in the Province of Alberta and was at all material times the Chairman of the Al-Madinah Calgary Islamic Assembly and who is also President of The Islamic Supreme Council of Canada.

4. The Assembly owns and operates a facility called the Al-Madinah Calgary Islamic Centre (the “Centre”) located at 5700 Falsbridge Drive N.E., Calgary, Alberta which includes an Islamic Mosque and a residence for teachers of Islamic faith.

5. The Defendants, Ahmed Iftikhar (“Iftikhar”), Gulam Mustafa (“Mustafa”), Naeem Butt, Najeeb Butt, Haji Rafiq (“Rafiq”), Harron Chughtai (“Chughtai”), Robina Butt, Shagufta Iftikhar, and Qasira Shaheen are individuals residing in the City of Calgary in the Province of Alberta.

6. The Defendant, the Continental Commerce Group Inc. carrying on business as the Pakistan Post (the “Pakistan Post”) is a corporation incorporated in Ontario, having a division in Calgary, Alberta and at all times material to this action was a publisher and proprietor of the Pakistan Post, a weekly national newspaper which has a substantial circulation and even greater readership in Canada.

Conspiracy and Interference with Economic Interests

7. In or about August, 2007 the said individual Defendants formed a committee of which they called themselves the “Action Committee” (the “Action Committee”) and by that Committee maliciously conspired to, with the predominant intent and purpose, to damage the reputation of the Plaintiffs to shut down the activities of the Assembly and to unlawfully interfere with and to harm the personal and business interests of the Plaintiffs in the Muslim Community, in Calgary and elsewhere, through repeated acts of defamation, disparagement and assault as set forth below.

8. The defamatory words uttered, printed and published by the Action Committee as set out in paragraphs 11 through 20 below were calculated to and did cause economic losses to the Plaintiffs and disparaged Ashraf and Soharwardy in their respective offices at the Committee and the Islamic Supreme Council of Canada. The Defendants’ unlawful defamatory and disparaging conduct:

- (a) caused irreparable harm to each of Soharwardy and Ashraf’s credit, character and reputation as businessmen, in case of Ashraf as a realtor, citizens and members of the Assembly and members of the Pakistani and Muslim communities;

- (b) resulted in loss of business profits and opportunities for Ashraf in his real estate business; and
- (c) a reduction in attendance and membership at the Assembly with a corresponding loss of revenue.

9. Further, and in the alternative the Plaintiffs state that, at all times material to this action, the Defendants knew or ought to have known that their unlawful defamatory, disparaging and threatening conduct and unlawful interference with economic interests would likely result in the above described injury and losses to the Plaintiffs.

10. Further, the Plaintiffs state that the Defendants' slanderous and libelous attacks acting in concert, on the Plaintiffs constitute an ongoing pattern of malicious behavior. The Plaintiffs state that the Defendants have used their positions in the Pakistani Community which positions afforded the Defendants ready access to groups and members of the Community, as a stage to disseminate and propagate their libelous, defamatory, disparaging, wrongful, malicious and slanderous statements about the Plaintiffs to as many members of the Assembly and the Muslim Community as they could research.

Defamation

11. The particulars of the Defendants' slanderous conduct include but are not limited to the following:

- (a) On or about August 3, 2007 during the Friday prayer time, Iftikhar had approached the Chairman of the Committee of the Assembly, Soharwardy and the Committee of the Assembly including Malik Ashraf, Ali Shah, Mohammad Tariq, Abdul Hameed, Rao Souhaib Musharraf, Ayaz Qadri, Mohammed Rehan, and uttered slanderous and defamatory comments to the members of the Committee falsely accusing the Plaintiffs of fraud and corruption. Iftikhar also blamed Mr. Malik Ayaz Khan of being sponsored on an Immigration Visa by the Assembly and stated that this "corruption" was done by Ashraf because Mr. Khan is his brother.

- (b) On or about September 14, 2007 Iftikhar uttered similar slanderous and defamatory statements to Soharwardi and members of the Assembly Committee.
- (c) Further, during this time Iftikhar, Naeem Butt, Najeeb Butt, Rafiq, Robina Butt, Shagufta Iftikhar, Qasira Shaheen and Chughtai made numerous phone calls to citizens of the Pakistani Community spreading slander and rumors about the fraud and corruption of the Assembly and of Ashraf's and Badiuddin's involvement therein.

12. Between September 27 and October 3, 2007 inclusive, the Action Committee published defamatory statements in the Urdu language version of Volume 15 – Issue Number 757 of the Pakistan Post (Toronto, Montreal, Calgary and Edmonton Edition) which publication is attached to this Statement of Claim as Schedule “A”. The approximate English language translation of these defamatory statements is as follows:

In The Name of Allah, the Most Beneficent, The Most Merciful

Message to the Muslim Community From The Action Committee

Everyone has been informed that the Al-Madinah Calgary Islamic Centre located at 5700 Falsbridge Drive NE is giving services for the last four years for prayers and other religious activities.

It is being managed under the umbrella of Chairman Islamic Supreme Council of Canada, Professor Syed Badiuddin Soharwardi, and nominated president of Committee, Malik Shoukat Ashraf, and others.

One volunteer of the AMCIC, Iftikhar, who has done a lot of services for AMCIC was pushed out of the AMCIC because he asked about the corruption that is being done under the Presidency of Syed Soharwardi and Malik Ashraf and he was stopped by the police to go back to the Islamic Center. After hearing about the police incident, some people tried to investigate and found out that President Malik Ashraf, with the help of his companions and his Chairman, have done financial corruption and objectionable crimes.

Under these circumstances some people from the community have formed an Action Committee to investigate. This Committee asks Chairman Syed Soharwardi, who is also President of The Islamic Supreme Council of Canada, and ISCC Alberta President, Abdul Qayum Butt, that after doing the justification:

1. *Remove Malik Ashraf from President designation right away*
2. *Arrange an election under the Action committee*

3. *Present a financial audit of AMCIC of previous years*
4. *Inform us about Al-Madinah Islamic School regarding why this school was purchased at a location far from the city and who was involved in this decision*
5. *Who had called the police on Iftikhar (is it a crime to investigate what is happening)*

The Action committee has also found out that the leaders of AMCIC do not issue receipts after receiving donations and that's why The Action committee requests the public, under this circumstance, to not donate to the AMCIC and request an audit from previous years.

If anyone has donated to the Islamic center and did not receive a receipt call the number listed below and give us a written complaint.

The Action Committee has also found out about big crimes and corruptions taking place within the AMCIC. We will present this information to the public in the future with proof and witnesses.

The Action Committee asks the people of the Muslim community who attend the AMCIC that under the name of religion is it right of the people who collect donations to call the police on you if you ask them any questions about where money is being spent? Please support us.

From Naeem Ahmad Butt 613-7463

President Action Committee against Corrupt Leaders of AMCIC

13. Further, between November 1, 2007 and November 9, 2007 inclusive, the Action Committee published the following defamatory statements in the Urdu language version of Volume 15 – Issue Number 762 of the Pakistan Post which publication is attached to this Statement of Claim as Schedule “B”. The approximate English language translation of these statements is as follows:

Calgary Press Release: One of the famous Real Estate companies' owner Mr. Amar Gill (Five Star Realty), after receiving complaints with evidence from Dr. Iftikhar and Haroon Chukhtai, fired Mr. Malik Ashraf from his job. He also sent the file to the Real Estate Board (RECA) for further action. Mr. Malik Ashraf, who is the President of Al-Madinah Islamic Centre of Calgary, after the action from Five Star Realty, had his real estate license cancelled.

14. A substantial number of readers of Pakistan Post read the above cited statements and remember the gist of their contents.

15. Between September 27, 2007 and present, the Action Committee published defamatory statements in printed flyers in Urdu language and hand-delivered them to individuals and

businesses within the Plaintiffs' community. The flyers contained relatively the same defamatory statements as the newspaper articles and a copy of one such flyer is attached as Schedule "C" to this Statement of Claim.

16. The readers of the Pakistan Post and persons who were privy to the Defendants' slanderous statements number in the thousands and include:

- i. Ali Shah
- ii. Aslam Khan
- iii. Zareff Hanif
- iv. Mohammad Tariq
- v. Mohammad Haris
- vi. Abdul Hameed
- vii. Malik Ayaz Khan
- viii. Shahid Bashir
- ix. Malik Ashraf
- x. Syed Badiuddin Soharwardy
- xi. Asghar Ali
- xii. Mohammed Rehan
- xiii. Abdul Qayyum Butt
- xiv. Rao Musharraf

17. The said slanderous and libelous statements were understood by most of the publishees of such statements, as the Defendants intended the said statements to be understood in their common meaning, impugning the Plaintiffs as being persons with characteristics of criminality

and dishonesty. In consequence, each of the Plaintiffs has suffered irreparable harm to their personal and business reputations and economic interests as well as considerable distress and embarrassment, and the Assembly has suffered loss to its business and social interests.

18. The Plaintiffs further state that the said libelous and slanderous statements were premeditated, malicious and vindictive or, alternatively, were published by the Action Committee with recklessness in their disregard for the injury and damages such statements would reasonably be expected to cause, and did in fact, cause to the Plaintiffs' economic interests, reputations and to the esteem to which they were held in the community.

19. The Pakistan Post published the said defamatory statements knowing such statements were false, or with recklessness as to their truth or falsehood having calculated that the benefit to the Defendant, Pakistan Post would outweigh any compensation payable to the Plaintiffs.

20. Further, the Pakistan Post owed a duty of care to Plaintiffs and was negligent in publishing the statements as it knew or ought to have known that publication of such statements would cause severe harm to the Plaintiffs' reputation and economic interests.

Assault, Nuisance, Trespass and Violation of Privacy

21. Further, Iftikhar has, on several occasions, threatened to "shut down" the Assembly and to assault its members including Ashraf, employing a tone and inflection from which they could reasonably infer, and did in fact infer, that Iftikhar intended to incite a riot, disturbing the peace, or to inflict physical, business and economic harm upon the Plaintiffs and the attendees of the Assembly. The individual Plaintiffs state that these statements from Iftikhar caused them consternation, worry and fear for their safety, the safety of their families and that such statements, and in the case of the Assembly, the business welfare constituted an assault.

22. Further, the Plaintiffs state that the Defendants' above-described defamatory and threatening conduct constitutes a nuisance to the Plaintiffs, the Committee of the Assembly and the Assembly's attendees.

23. Further, the Plaintiffs state that the Defendants' defamatory conduct constitutes a breach of Ashraf's and Soharwardy's right to privacy.

24. The Plaintiffs and their counsel have repeatedly demanded that the Defendants cease and desist from any further disparaging, defamatory and threatening conduct and demanded that Iftikhar, Mustafa, Naeem Butt, Najeeb Butt, Rafiq, Chughtai, Robina Butt, Shagufta Iftikhar, Qasira Shaheen, refrain from attending at the premises of the Assembly and the Mosque.

25. Despite such repeated demands, the Defendants continue to defame, harass and assault the Plaintiffs and have on several occasions trespassed at the Centre. Further, despite demands, from the Plaintiffs, the Defendants have refused to provide a retraction and apology for their statements and conduct.

26. The Plaintiffs plead the provisions of the *Defamation Act*, Chapter D-7, Statutes of Alberta.

27. The Plaintiffs claim exemplary or punitive damages based upon conspiracy, interference with economic relations, assault, nuisance, trespass, violation of privacy, and the serial defamatory and disparaging conduct of the Defendants and based upon the extreme malice exhibited by the Defendants in engaging in such conduct.

28. The Plaintiffs seek an injunction of this Court enjoining the Defendants from speaking or otherwise publishing their defamatory and wrongful comments relating to the Plaintiffs.

29. The Plaintiffs seek a permanent restraining order of this Court prohibiting Iftikhar, Mustafa, Naeem Butt, Najeeb Butt, Rafiq, Chughtai, Robina Butt, Shagufta Iftikhar, Qasira Shaheen and other Action Committee members from attending at the premises of the Assembly or the Centre and maintaining a distance of at least 200 meters from Ashraf, Badiuddin, their immediate families, residences or places of employment or business.

30. The Plaintiffs do not anticipate that the trial of this matter will exceed 25 days and propose that the trial be held at the Court House in Calgary, Alberta.

WHEREFORE THE PLAINTIFF CLAIMS AGAINST THE DEFENDANTS, JOINTLY AND SEVERALLY:

1. General damages for interference with economic relations, conspiracy, libel, slander, trespass, disparagement, nuisance, and breach of privacy in the amount of \$4,000,000.00;

2. Punitive or exemplary damages based upon the extreme ill will and malice exhibited towards the Plaintiffs in the amount of \$1,000,000.00;
3. General damages for assault in an amount of \$500,000.00;
4. Permanent injunction enjoining the Defendants and each of them from making any oral or written derogatory statements referring to Malik Ashraf, Syed Badiuddin Soharwardy or the Al-Madinah Islamic Assembly;
5. Temporary injunction restraining Ahmed Iftikhar, Gulam Mustafa, Naeem Butt, Najeeb Butt, Haji Rafiq and Harron Chughtai, Robina Butt, Shagufta Iftikhar, Qasira Shaheen from attending on the property of the Al-Madinah Calgary Islamic Centre;
6. Restraining Order against Ahmed Iftikhar, Gulam Mustafa, Naeem Butt, Najeeb Butt, Haji Rafiq and Harron Chughtai, Robina Butt, Shagufta Iftikhar, Qasira Shaheen requiring that they maintain at all times a distance of at least 200 meters from Ashraf, Soharwardy, their immediate families, residences or places of employment or business and the Al-Madinah Calgary Islamic Centre;
7. Costs on a solicitor and own client basis;
8. Such other relief which this Honourable Court considers necessary or just in the circumstances.

DATED at the City of Calgary, in the Province of Alberta, this ____ day of February, 2008; AND DELIVERED BY MESSRS. FLEMING LLP, Barristers and Solicitors, Solicitors for the Plaintiffs, whose address for service is in care of the said solicitors at 1500, 736 - 6th Avenue SW, Calgary, Alberta, T2P 3T7, Attention: Clive Llewellyn tel: (403) 266-7629.

ISSUED out of the office of the Clerk of the Court of Queen's Bench of Alberta, Judicial District of Calgary, this ____ day of February, 2008.

CLERK OF THE COURT

NOTICE

To the Defendants:

AHMED IFTIKHAR, GULAM MUSTAFA, NAEEM BUTT, NAJEEB BUTT, HAJI RAFIQ, HARRON CHUGHTAI, ROBINA BUTT, SHAGUFTA IFTIKHAR, QASIRA SHAHEEN and the PAKISTAN POST

You have been sued. You are the Defendants. You have only **FIFTEEN (15) DAYS** to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice at the office of the Clerk of the Court of Queen's Bench at 601 5th Street S.W., Calgary, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

WARNING: IF YOU DO NOT DO BOTH THINGS WITHIN FIFTEEN (15) DAYS, YOU MAY AUTOMATICALLY LOSE THE LAWSUIT. THE PLAINTIFF MAY GET A COURT JUDGMENT AGAINST YOU IF YOU DO NOT FILE, OR YOU DO NOT GIVE A COPY OF THE PLAINTIFF, OR DO EITHER THING LATE.

Action No.: 0701-

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

MALIK ASHRAF, SYED BADIUDDIN SOHARWARDY and AL-MADINAH CALGARY ISLAMIC ASSEMBLY

Plaintiffs

and

AHMED IFTIKHAR, GULAM MUSTAFA, NAEEM BUTT, NAJEEB BUTT, HAJI RAFIQ, HARRON CHUGHTAI, ROBINA BUTT, SHAGUFTA IFTIKHAR, QASIRA SHAHEEN and the CONTINENTAL COMMERCE GROUP Inc. carrying on business as the PAKISTAN POST

Defendants

STATEMENT OF CLAIM

This Statement of Claim is issued by FLEMING LLP Barristers and Solicitors, solicitors for the Plaintiff herein, who resides at Calgary, Alberta and whose address for service is in care of the said solicitors at Suite 1500, 736 - 6th Avenue S.W., Calgary, Alberta, T2P 3T7, and is addressed to the Defendant whose residence as far as is known to the Plaintiff is Calgary, Alberta.

FLEMING LLP

Barristers and Solicitors
1500, 736 - 6 Avenue S.W.
Calgary, Alberta T2P 3T7

Attention: Clive Llewellyn

Telephone: 403.266.7629
Facsimile: 403.265.6910

Solicitor's File No.: 34111