

CITATION: Morrison v. Hatts Off Inc. et al., 2026 ONSC 5352
COURT FILE NO.: CV-23-80958-00CP
DATE: 2026-09-25

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

Jamar Morrison

Plaintiff

- and -

Hatts Off Inc., Naylor Nine Holdings
Limited, Gordon Naylor, Bronwyn Naylor,
Aladine Hanna, and Hatts Off Specialized
Services Inc.

Defendants

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) L. Visser, T. Planeta, and A. Ryan,
) Counsel for the Plaintiff
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) C.K. Boggs, and S. Zacharias, Counsel
) for the Defendants
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Proceeding under the *Class Proceedings Act, 1992*

) **HEARD:** June 29,30, and July 2,3, 2026

SUPPLEMENTARY REASONS FOR DECISION

The Honourable Justice M. Valente

[1] I issued my Reasons for Decision on September 8, 2026, with respect to the Plaintiff's motion certifying this action as a class proceeding pursuant to the *Class Proceedings Act, 1992* ("CPA"). I granted the motion for certification subject to certain amendments with respect to two of the Plaintiff's proposed common issues.

[2] In response to the Plaintiff's motion, the Defendants submitted in part that paragraphs 31-33 of the Plaintiff's draft Second Fresh as Amended Statement of Claim ought to be struck. These paragraphs contain allegations regarding the Defendants' public denial of liability and accountability to the Plaintiff and the class members as well as allegations with respect to the Defendants' defamation lawsuit against Global News (collectively, the "Allegations").

[3] In my Reasons for Decision, I concluded that because there was no motion before the court to strike the impugned paragraphs, the appropriateness of the challenged pleading should be left for another day when the Defendants' request was formalized by way of motion.

[4] Subsequent to the release of my Reasons for Decision, the parties brought to my attention that the Plaintiff's notice of motion not only requests certification of the within action pursuant to the *CLA* but also an order granting the Plaintiff leave to file the draft Second Fresh as Amended Statement of Claim and that their submissions regarding the impugned paragraphs were in respect of this relief sought by the Plaintiff.

[5] Through my inadvertence, I overlooked the additional relief sought by the Plaintiff in his notice of motion.

[6] In the circumstances of the Plaintiff's formal request that the amended draft pleading be filed, I agree with the Defendants' submission that a motion to strike is not required for the court to consider the Defendants' submission that paragraphs 31-33 be

struck (see: *Marks v. Ottawa*, 2011 ONCA 248, at para. 19) and I am prepared to rule on the issue.

[7] The Defendants submit that neither are the Allegations representative of a cause of action nor are they material facts in support of a cause of action. The Defendants further submit that they are absurd on their face insofar as they suggest that it is actionable or improper for a party to deny allegations made against them or take steps to clear their reputation in the face of harmful allegations. For these reasons, the Defendants' position is that the Allegations contained in paragraphs 31-33 of the proposed statement of claim ought to be struck as "irrelevant, argumentative, or inserted for colour" (see: *Abbasbaylie v. Fiera Foods Company*, 2021 ONCA 95 ("*Fiera Foods*"), at para. 49).

[8] In response, the Plaintiff submits that the Defendants have misunderstood his claim. In paragraph 60 of the draft pleading the Plaintiff specifically alleges that the responses of the Defendants "are themselves harmful to the Plaintiff and the Class Members". The Plaintiff further submits that the alleged resultant harm is logical given the unique nature of the harm alleged by him as a consequence of the Defendants' wrongdoing. In paragraph 57 of the proposed pleading, the Plaintiff alleges this harm includes deprivation of healing opportunities; impairment of mental and emotional health and well-being; impaired ability to trust others; a loss of self-esteem and feelings of humiliation and degradation.

[9] Rule 25.11(b) provides that this court may strike out all or part of a pleading, with or without leave to amend, in the event that the pleading is “scandalous, frivolous or vexatious”. In *Fiera Foods*, at para.19, the Court of Appeal held that scandalous pleadings include pleadings that are “irrelevant, argumentative, or inserted for colour, and unfounded and inflammatory attacks on the integrity of a party”.

[10] In the same paragraph of *Fiera Foods*, the Court provided this further direction when considering whether a pleading might be scandalous:

The focus in considering a challenge to a pleading under this rule is on the relevance of the pleading to a cause of action or defence. As this court recently noted in *Huachangda Canada Holdings Inc. v. Solcz Group Inc.*, 2019 ONCA 649, 147 O.R. (3d) 644, at para.15 “[a] fact that is relevant to a cause of action cannot be scandalous, frivolous or vexatious. On the other hand, a pleading that raises irrelevant or superfluous allegations that cannot affect the outcome of an action is scandalous, frivolous or vexatious, and should be struck out”.

[11] I find that the Allegations are relevant to the Plaintiff’s cause of action in negligence, breach of fiduciary duty and vicarious liability to the extent that they are material to an assessment of damages that follow from a finding of liability on the part of one or more of the Defendants. Furthermore, given the alleged damages suffered by the Plaintiff and class members as particularized in paragraph 57 of the draft claim, it is not “plain and obvious” that the Allegations themselves were not harmful to the Plaintiff and the class members (see: *Pro-Sys Consultants*, at para.63). For these reasons, I decline to strike paragraphs 31-33 of the Second Fresh as Amended Statement of Claim.

[12] Instead, an order shall issue granting the Plaintiff leave to file his draft Second Fresh as Amended Statement of Claim attached as Schedule “A” to his notice of motion, dated May 31, 2024.

Justice M. Valente

Released: September 25, 2026

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Released: September 25, 2026