

Ontario Superior Court of Justice - Small Claims Court

Toronto, Ontario

S. Timms Deputy J.

Heard: January 27-29, 2025.

Judgment: June 30, 2025.

File No. SC-20-56

**[2025] O.J. No. 5900**

Between Matthew Jeffery, Plaintiff, and Mohammad Hammad Almuslat, Faisal Almuslat and Google LLC, Defendant

(84 paras.)

**Counsel**

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Matthew Jeffery, representing himself.

Carlos Sayao and Anna White, representing Google LLC.

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**Reasons for Judgment**

**S. TIMMS DEPUTY J.**

**1** This is a matter in which the plaintiff seeks damages alleging internet defamation. The trial initially commenced before Deputy Judge T. Clemenhagen, and for written reasons, the Defence of Mohammad Hammad Almuslat and Faisal Almuslat ("The Almuslats") was struck on June 28, 2024.

**2** Google LLC is the remaining defendant defending this claim. The plaintiff alleges that Google is liable for the defamation as it provided the platform for Almuslats posts and refused to remove the posts when requested by the plaintiff. Google does not dispute the defamation allegations against the Almuslats, disputing only its liability for providing the platform for the posts to appear. Following the June 28, 2024 Order of Deputy Judge Clemenhagen, Google removed the last of the disputed Almuslat posts.

**3** The plaintiff and Google agreed to the matter proceeding in front of a different Deputy Judge

given the retirement of Deputy Judge Clemenhagen in late 2024. The transcript of the beginning of the plaintiff's testimony forms part of this hearing.

## **Facts**

**4** Mr. Jeffery, the plaintiff, is an immigration lawyer who set up a Google My Business account to market himself and his business. He testified that he does most of his firm's marketing on-line. Google offers a function and a platform for individuals to post reviews about any business that has a Google My Business account or simply appears on Google's map searches. Reviews can be made by anyone with a Google Gmail account and can be made anonymously. Anyone can see the reviews by making a search for a business through Google and the reviews remain on-line indefinitely.

**5** The plaintiff was retained by the defendants, the Almuslats, in March 2019 to assist them with their refugee claims. On May 11, 2019, Mohammad Almuslat demanded by email that the plaintiff waive \$10,000 in fees payable under the retainer agreement or terminate the agreement and refund \$14,500 of \$20,000 that had been paid under the retainer agreement.

**6** The plaintiff's response was that he would terminate the agreement and waive the remaining fees under the agreement but he would not refund any of the payment previously paid.

**7** On June 11, 2019 the plaintiff received a one star review on the Local Reviews platform under the plaintiff's "Google My Business" profile. The review was under the name of "Canada Lover" and roughly stated that the plaintiff's five star reviews were fake, the plaintiff and his office play games with their clients, treat them only as sources of revenue, were not professional, were inexperienced and intentionally obtain poor results in order to make more money.

**8** Mr. Jeffery believed that these reviews originated from the Almuslats and he contacted Mohammad Almuslat to remove the review. Mohammad replied by repeating his request for the \$14,500 refund.

**9** On June 13, 2019, a second one star review appeared under the name of Atlantis C.B. and the content was similar to the first review. The plaintiff sent another email to Mohammad Almuslat to remove this review. Mr. Almuslat pleaded ignorance but continued to demand a refund of the retainer.

**10** The plaintiff retained counsel who sent a Notice of Libel to the Almuslats on June 15, 2019 threatening legal action unless the reviews were removed by June 19, 2019. The reviews were removed on the later date.

**11** However, despite efforts to resolve the issue the issues with the Almuslats, more reviews appeared under different names between July and October 2019. Another Notice of Libel was served on the Almuslats on December 27, 2019 demanding a retraction and apology. There was no response from the Almuslats but another one star review from "Canada Lover" appeared on the review site.

12 Since the commencement of this action there have been further one star reviews, all under fictitious names according to Mr. Jeffery - names such as "Canada Lover" and some allegedly given names that Mr. Jeffery states were never clients of his firm. Some reviews were simply one star, while others continued to reframe the content initially contained in the first review.

13 The plaintiff filed an Amended Amended Plaintiff's Claim on October 6, 2023, alleging additional negative reviews.

14 At issue are 26 reviews as set out below:

**Amended Plaintiff's Claim, filed January 31, 2020:**

Reviewer Name	Attributed to	Dated Posted	Date Removed
1. Canada Lover	Almuslat	June 11, 2019	June 20,2019
2. Atlantis C.B.	Almuslat	June 13, 2019	June 20, 2019
3. Canada Lover	Almuslat	July 3, 2019	July 13, 2019
4. Canada Lover	Almuslat	July 8, 2019	Before January 3, 2020
5. Fadia Boukli	Almuslat	July 18, 2019	After June 28, 2024
6. kumar f.j.	Almuslat	September 17, 2019	Before October 6, 2023
7. The True Way	Almuslat	September 18, 2019	September 29,2019
8. Shawn Garcia	Almuslat	October 2, 2019	Before October 6, 2023
9. kumaryi niloe	Almuslat	December 13, 2019	Before October 6, 2023
10. Canada Lover	Almuslat	December 29,2019	After June 28, 2024

(later "Do it or not")

**Additional Posts added to Amended Amended Statement of Claim, filed October 6, 2023:**

11. "A Google User"	Almuslat	February 6, 2020	Before October 6, 2023
12. An Asian character	Almuslat	February 9, 2020	Before October 6, 2023
13. Shamsheer Singh Sardar	Almuslat	February 29, 2020	Before October 6, 2023
14. Henry Singh	Almuslat	June 26, 2020	Before October 6, 2023
15. santosh bhujel	Almuslat	February 15, 2021	February 17, 2021
16. Willies Gr	Almuslat	May 1, 2021	After June 28, 2024
17. Ashely White	Almuslat	May 1, 2021	Before October 6, 2023
18. Hannah Baby	Almuslat	October 22, 2021	Before October 6, 2023
19. Jaspreet Singh	Almuslat	October, 2022	After June 28, 2024
20. Viv Soares	Unknown	Before June, 2019	N/A
21. Sam M	Unknown	Before June, 2019	N/A
22. ibrahim basahi	Unknown	Before June, 2019	N/A
23. Jiten Kumar	Unknown	Before June, 2019	N/A
24. R P	Unknown	Before June, 2019	N/A
25. Manpreet Manpreet	Unknown	Before June, 2019	N/A
26. Aws Garra	Unknown	Before June, 2019	N/A

15 Google did not author any of the posts, did not have advance notice by the authors that they intended to publish the posts and did not approve or endorse the reviews when they were initially posted.

**16** The plaintiff made requests to Google to take down the reviews. The third and fourth reviews were flagged as inappropriate by Google and removed. However, Google declined to remove other reviews (5, 6 and 7). Over time, the reviews were eventually removed.

**17** By June 28, 2024, following the decision of Clemenhagen, D.J. striking the Almuslat's defence, the last 2 reviews posted by the Almuslats were removed by Google, given that the striking of the Almuslats' defences that there was no longer a dispute to the claims of defamation. Some of the reviews remained visible on Local Reviews for several years. The 7 reviews of unknown attribution and posted before June 2019, still remain visible although are now ranked in later pages.

**18** Despite the negative posts, Mr. Jeffery's firm has a high rating. In a search of The Immigration Law Firm of Matthew Jeffery, dated September, 2023, the firm's rating is 4.8 out of 5 (Ex. 16).

### **Process to Remove a review**

**19** The plaintiff described the process of requesting a review be taken down by Google. The first step is flagging a review, although according to the plaintiff, that rarely results in a removal.

**20** The next step is made by way of an on-line form provided by Google - "Report Content for Legal Reasons". The report must provide the text of the content that is wished to be removed and the URL. The complaint must also provide a sworn explanation as to why the content violates Google's policies and/or is illegal. Google usually responds within 1-2 days with a decision as to whether the review will be removed. If the decision is to decline a removal request, the usual reason is that the review does not violate Google's policies. There is no further recourse/appeal process through Google once a request is denied.

**21** Google's evidence was provided by Erin Kwak, a member of the legal content and policy team at Google for 2.5 years. She described in some detail the removal process from Google's perspective.

**22** There are two different channels and teams that deal with a removal request. The first is the Community Guidelines team, which considers whether content violates any of Google's content policies and the second is the Legal Policy team which considers whether content violates local laws including the law of defamation.

**23** The legal policy team considers every single legal removal request of local reviews and provides responses once a determination is made regarding a request. The team member looks at many factors of a local review and can remove content that is clear and straightforward defamation. However, it is a challenge to determine if a review is a genuine customer experience. Google has chosen to defer to courts for the challenging cases regarding potential defamation before removing those reviews. What this means, is that it is up to the complainant

to go to court in hopes of a finding of defamation regarding a post, and then, Google will voluntarily remove the post and restrict the content.

**24** The team has two full-time members and an unstated number of part-time members. Ms. Kwak stated that it was impractical to screen all reviews as there are over 20 million reviews daily. However, Google received more than 90,000 business removal requests in 2019 which averages to 250 per day. Ms. Kwak stated that each complaint is addressed although not every poster is reached. It is a business decision made by Google as it is not feasible nor practical to contact everyone and if they did make contact, there is no way to determine the truth of differing accounts.

**25** If a review is not removed it will stay on-line indefinitely.

**26** Given Ms. Kwak's duration at Google, she was not the person who made the decisions to decline the plaintiff's requests to remove the reviews. There was no direct evidence, either oral testimony or written notes, as to what considerations the person tasked to review the complaints used in making its decision about the complaints.

**27** Google has a list of prohibited and restricted content (Ex. 24) which has two categories. The first is Deceptive Content and Behavior which includes fake engagement, Impersonation, misinformation and misrepresentation. The second is Inappropriate Content and Behavior which includes harassment, hate speech, offensive content, personal information, obscenity & profanity, sexually explicit content, adult-themed content, violence & gore, restricted content, illegal content, child safety, terrorist content, off-topic, advertising & solicitation, gibberish & repetitive content, and defacement & mischief.

**28** Exhibit 24 also provided instructions, found on-line, to report and fix inappropriate content. The flagging of a review is the first stage. If Google finds that there is no policy violation at the flagging stage, the complaint can be escalated for a one-time appeal of the removal request. According to Ms. Kwak if the removal request was denied by Google, then it was up to the complainant to take the matter to court to seek a finding of defamation.

**29** Posts by anonymous and fictitious users are treated in the same way as those who are identified. Using a fictitious name was not a sufficient reason to take down a post. Ms. Kwak states that it was impractical to expect Google to verify every post and essentially it was a business decision not to do so involving removal requests.

**30** It was noted in the evidence of Mr. Jeffery and Ms. Kwak, that Mr. Jeffery could have responded to the negative reviews on the Local Review site. Mr. Jeffery believed it would be counterproductive. Reviews are ranked by date. Mr. Jeffery's evidence was that responding would bring more attention to the negative reviews and therefore chose not to do so.

## **Evidence of Robert Santos**

**31** Google sought to disallow the evidence of Robert Santos as he was not qualified as an expert.

**32** Mr. Santos' evidence was not accepted as expert testimony. He was employed by the plaintiff as digital marketing manager for the firm two years after the posting of the initial reviews. Because his work experience was marketing, he used Google and its platforms as part of his job. He has no training in web development nor in consumer psychology.

**33** He admitted that he was not impartial and was only able to provide his opinions as to how reviews could be consumed by the public.

**34** Google argued that their witness Ms. Kwak provided the necessary evidence as to how reviews are posted on Google platforms, how users can report reviews to Google and how Google personnel respond to reported reviews. However, Ms. Kwak as an employee of Google, is also not impartial. She was not able to give direct evidence on the handling of the plaintiff's complaints. Further, she was not able to provide the evidence from the vantage of the consumer. Her evidence was primarily useful regarding the complaint process.

**35** Neither witness was an expert and therefore their evidence has been taken as information only.

**36** Another fact of note is that every business is subject to the Google review system. Even if a business chooses not to opt into Google's package, the business is still subject to being reviewed by the public.

**37** Google argues that customer reviews are "expressions on a matter of public interest" and the review platform provides a meaningful dialogue on the services provided by local businesses.

## **Issues**

1. Are any of the reviews barred by the Statute of Limitations?
2. Is Google a publisher with respect to Google Local Reviews?
3. If Google is found to be a publisher, is there a defence of fair comment based on public interest?
4. Damages

## **Statute of Limitations**

**38** The plaintiff commenced his claim on January 3, 2020. He amended his claim on February 4, 2020, and subsequently, filed an Amended Amended Plaintiff's Claim on October 6, 2023.

**39** In his Amended Claim, the plaintiff alleged ten disputed posts, all of which he attributed to

the Almuslats. In his Amended Amended Claim, the plaintiff added a further 16 alleged defamatory posts.

**40** The defendant submits that 14 of the posts are statute barred. The Limitations Act, 2002, SO 2002, c. 24, Sched. B, s.4, states that: "a proceeding shall not be commenced in respect of a claim after the second anniversary of the day of which the claim was discovered". The plaintiff's evidence was that he pays close attention to the reviews posted and receives notification when a new review is posted.

**41** In the chart above, items 20 to 26, attributed to unknown posters, were posted before June 2019. Items 11 to 17, attributed to the Almuslats, were posted between February 6, 2020 and May 1, 2021. These posts were not alleged until he filed his Amended Amended Plaintiff's Claim in October, 2023.

**42** I find that each post is a separate cause of action and posts 11-17 and 20 to 26 are barred by the limitation period under the Limitations Act.

**43** Further, in *Torgerson et al v. Nijem*, [2019 ONSC 3320](#), the Ontario Superior Court rejected the argument that a post available online gives rise to a new cause of action each day it remains online. The court stated that the "argument for continuous publication would create endless retriggering of limitation periods" (because they remain on the internet)... "This would allow plaintiffs to sit on their rights until it suited them to take action, rather than sue when they become aware of the wrong. This would be unfair to defendants who would be subject to lawsuits indefinitely, and raises concerns about freedom of expression."

**44** The remainder of this action relates to Posts 1-10, 18 and 19.

### **Is Google a Publisher of Local Reviews?**

**45** Google submits that it is not a publisher of its Google Local reviews and states the test was established in *Grant v. Torstar Corp.*, [2009 SCC 61](#):

"A plaintiff in a defamation action is required to prove three things to obtain judgment and an award of damages:

- (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person;
- (2) that the words in fact referred to the plaintiff; and
- (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff. (para. 28)"

**46** Google goes on to argue that publication requires knowing involvement in conveying defamatory words to the public. It sees itself as a passive intermediary, one who merely facilitates the appearance of on-line content authored by others and submits that this is supported by the Supreme Court of Canada in *Crookes v. Newton*, [2011 SCC 47](#) - a publisher must have "knowing involvement in the process of publication of the relevant words" (para. 21)

**47** However, the court made a distinction about on-line content. *Crookes* involved the use of hyperlinks, similar to footnotes, that led to other sites, including some with defamatory material. The court found that, generally, the use of hyperlinks could not be construed as publication. However, it stated:

A reference to other content is fundamentally different from other acts involved in publication. Reference on its own does not involve exerting control over the content. Communicating something is very different from merely communicating that something exists or where it exists. The former involves dissemination of the content, and suggests control over both the content and whether the content will reach an audience at all, while the latter does not. (para 26)

**48** Google cites two decisions involving it as defendant and the use of snippets (brief extracts of a webpage that are displayed on Google Search results in response to particular search terms).

**49** In *Niemela v. Malamas*, [2015 BCSC 1024](#), the plaintiff alleged that in searching its name, it found snippets that it alleged were defamatory. The plaintiff alleged the snippets were published by Google because they appeared on its own website which it controlled.

**50** However, the court stated:

Google programs its search algorithm so that it locates URLs likely to relate to a user's search query. It is not aware of the snippets and hyperlinks produced, nor can it be realistically ... it has merely, by the provision of its search service, played the role of facilitator.

In summary on this issue, I conclude that Google is a passive instrument and not a publisher of snippets. (para. 106, 107)

**51** In *Metropolitan International Schools Ltd. V. Designtecnica Corp.*[2009] EWHC 1765 (Q.B.) the court found no liability for defamation against Google because "for a person to be fixed with responsibility for publishing defamatory words, there needs to be present a mental element" (para. 50.)

When a snippet is thrown up on the user's screen in response to his search, it points him in the direction of an entry somewhere on the Web that corresponds, to a greater or lesser extent, to the search terms he has typed in. It is for him to access or not, as he chooses. It is fundamentally important to have in mind that [Google] has no role to play in formulation such terms. Accordingly, it could not prevent the snippet appearing in response to the user's request unless it has taken some positive step in advance. There being no input from [Google], therefore on the scenario I have so far posited, it cannot be characterised as a publisher at common law. It has not authorised or caused the snippet to appear on the user's screen in any meaningful sense. It has merely, by the provision of its search service, played the role of a facilitator. (Para. 51)

**52** Both *Niemela* and *Metropolitan International Schools* can be distinguished from the facts of this case as they are dealing with a different aspect of Google, snippets, in which the mental

element is not a factor, but rather an algorithm. Similarly, hyperlinks are also determined by algorithm.

**53** In *Thorpe v. Boakye*, [2022 ONSC 7176](#), the plaintiff sued the posters of alleged defamatory statements as well as Google for allowing the statements on the Local Reviews Platform. Google argued that it was not a publisher of posts on Local Reviews because it did not author the content and brought a motion for summary judgment. Price, J., dismissed the motion stating:

I find that the Supreme Court's decision in *Crookes* was based on the particular nature of hyperlinks, which do not give the host of the internet platform where they appear control over the content of the third party material to which the links provide its users access. The decision should not be applied broadly to extend immunity to publishers for third party content over which they are able to exercise control.

**54** In this action, the platform is Google Local Reviews. A post is made about a business and stays on-line indefinitely unless the post is removed by the poster or Google. The complainant of a specific post has four pathways to remove the post:

1. ask the poster to remove the post;
2. if this fails, flag the post for consideration of removal by Google;
3. if this fails, make a formal request to remove the post with a sworn statement to Google - the request will be considered by a member of the legal and policy team.
4. The final step, is to sue the poster for defamation, and if a finding of defamation is made by a court, Google will likely remove the post.

**55** Steps 2 and 3 bring in the human element at Google. A member of the Google legal and policy team makes the decision whether a post contains content that does not meet Google's standards, first by looking at a flagged post, and secondly, after reading a complainant's sworn statement, making a decision if the post should be removed or remain on-line. It will remain on-line if the Google "decider" finds that it does not violate Google policy. By deciding that a post remains on-line, Google's legal and policy team is not just facilitating a post, it is controlling the content.

**56** Once a review comes to the attention of Google, a legal and policy team member makes a decision about the content of the review and whether the review will remain on the Local Reviews Platform run and controlled by Google. Google becomes a publisher at this point.

### **Defence of Fair Comment/Free Speech/Public Interest**

**57** Google argues that if it is deemed to be a publisher, then the defence of fair comment in the public interest arises.

**58** The plaintiff states the defence is not available as it only relates to S. 137.1 Courts of Justice Act, Anti-SLAPP provisions.

**59** The Ontario Court of Appeal held in *New Dermamed Inc. v. Sulaiman*, [2019 ONCA 141](#), that

negative customer reviews are "expressions on a matter of public interest". In that case, the motions judge concluded that the proceeding had substantial merit but that the appellant had failed to establish that the defence of fair comment was invalid". The defence is not limited to just Anti-SLAPP matters.

**60** However, the defence of fair comment must be balanced. In *Grant v. Torstar*, the Supreme Court found that there must be a defence of responsible communication on matters of public interest. For this defence to succeed, the court found that the publication must be on a matter of public interest and secondly, show that the author was responsible in trying to verify the allegations having regard to all the relevant circumstances.

**61** In this case, Google states that Local Reviews are provided in the public interest - allowing genuine reviews of a business. A consumer should be allowed to post its experience of a business without fear of repercussion. Google states that it needs to balance legally objectionable content and avoid censorship that would reduce the utility and therefore the public interest in its Local Reviews Platform. However, the review should be based on a genuine experience and not fabricated in order to obtain leverage in a dispute with the business. The posts should not harm a livelihood and damage reputation without basis.

**62** Its witness, Ms. Kwak stated that not all reviews that are flagged as defamatory are removed because this would create an inaccurate picture of customer experience of a local business which would not be in the public interest.

**63** Some of the posts in this case, are clearly fictitious, such as Canada Lover, Atlantis C.B. and "A Google User". The plaintiff provided sworn statements that given names attached to some posts were never clients of his firm. There surely must be a higher standard of reviewing and managing content when it is posted anonymously or fictitiously. Google's evidence is that it can find the "addresses" of these posters. Failing to do so, enables the poster to make untrue or unfair allegations that harm a business' reputation without repercussion and cannot be in the public interest. It is unclear why a multi-billion dollar company cannot provide the supports to manage posts alleged as defamatory.

**64** By its own measure, Google averages 90,000 complaints per year or 250 posts per day.(Evidence of Erin Kwak, based on 2019 average). It has a team of 2 full time people and an unstated number of part-time people to review these complaints. It requires the complaints to be sworn statements. Yet it states that it is not reasonable to expect it to verify each and every complaint, although in fact, it does review each complaint but it does not verify the poster.

**65** If the goal is to provide a genuine review of the business, then the Local Reviews Platform should have strong guidelines involving the use of anonymous and fictitious names. The present Google complaint protocol primarily results in repercussions to the business, not the poster. It is difficult to see how there is public interest if a poster is hiding behind a fictitious name.

**66** With its present system, Google places a large onus on the complainant to refute the allegations. First, it states that complainants can respond to the posts on-line in the public

domain of the review platform. The plaintiff responded that this would be counter-productive and could amplify the negative posts by keeping the negative posts near the top of ranking. Secondly, if a removal request is declined, complainants are required to take a poster to court to find defamation resulting in potentially high costs and time.

**67** Google argues that it is impractical for it to make determinations. Evidence was not led as to the size of Google or its financial worth, but it is an large international corporation and its name has become a generally accepted verb for on-line searches. It has an economic interest as many businesses pay for Google My Business, amongst many Google sites. It has a team for Legal and Policy Review but no evidence was submitted as to the size of the team. While Google has made a business decision, it appears to be weighted against its business customers.

**68** I find that Google has made a conscious decision to allow the offending posts to remain on its platform. It has been given notice of the content. It has acknowledged that the content is inappropriate but has chosen to "turn a blind eye" and not verify the content. While I accept that the goal is to provide genuine reviews of customer experiences for all consumers, there should be a higher standard for reviewing removal requests, particularly if the posts are under fictitious names. The defence of fair comment in the public interest needs to be fairly balanced against the harm to reputation in these circumstances.

## **Damages**

**69** An assessment of damages was ordered against the Almuslats as part of the order of D.J. Clemenhagen on June 28,2024. D.J. McNeely ordered that the assessment be performed at trial to avoid inconsistent findings and a splitting of claims on November 25, 2024.

**70** The plaintiff testified that his law firm's business was negatively impacted, however, he produced no business/financial records as evidence to support this allegation. An additional complication was that COVID began in March 2020 and the plaintiff agreed that may have had an impact on business as well.

**71** The plaintiff also stated that he suffered anxiety and emotional pain as a result of the alleged defamation as well as a loss of confidence in his business. Again there was no evidence other than his statements in support of this claim.

**72** However, as stated in *Lavallee et. al. v Isak* [2021 ONSC 6661](#), the plaintiff does not need to demonstrate a loss as damages for defamation are awarded at large.

**73** In *Mina Mar Group Inc. v. Divine*, [2011 ONSC 1172](#), the court states the purpose of defamation general damages is as follows:

- a. To console the plaintiff for the distress suffered from the publication of the defamation;
- b. To repair the harm to the plaintiff's reputation; and

- c. To vindicate the plaintiff's reputation.

**74** The factors to be considered in assessing damages were set out in *Hill v. Church of Scientology of Toronto* [1995] 2 S.C.R. 1130 (Sup. Ct. Can):

- a. The plaintiff's position and standing;
- b. The nature and seriousness of the defamatory statements;
- c. The mode and extent of publication;
- d. The absence or refusal of any retraction or apology;
- e. The whole conduct and motive of the defendant from publication through judgment; and
- f. Any evidence of aggravating or mitigating factors.

**75** The posts were intended to cause reputational harm to the plaintiff and leverage a dispute about legal fees. The publication of the posts was extensive given Google's reach on the internet and until such time as Google removed the posts, they were remained on the Local Reviews Platform as there was no expiration.

**76** Google argues that the plaintiff failed to mitigate his damages by refusing to respond to the negative reviews. Given that any response would continue to highlight the negative review, I accept the plaintiff's reasoning for not doing so and I do not accept the failure to mitigate argument.

**77** However, the plaintiff admitted that as of October, 2023, his rating on Local Reviews was 4.8/5 stars and that is considered to be a good rating.(Ex. 14) He also chose to feature the rating on his firm's website as well as three positive reviews that he selected as part of his firm's marketing. His position and standing were minimally affected.

**78** Google argues damages should not be joint and several because it was not the author of the defamatory content, nor did it encourage or approve of the content as it was a passive intermediary. As stated above I do not accept this position. I have found Google to be a publisher once the content was brought to its attention. It actively chose to decline a removal request and therefore it was no longer passive. It may not intend to cause reputational harm but it has enabled the ability of others to do so. Therefore, the general damages for defamation are joint and several with the Almuslats.

**79** Taking all of the factors into consideration, I assess general damages in the amount of \$15,000.

**80** However, I am also assessing aggravated damages against only the Almuslats. The posts were written with the intention to cause harm to the plaintiff and to leverage a dispute over legal fees. The plaintiff testified that they had made a complaint to the Law Society and taxed his account. Both the complaint and the assessment were dismissed and costs ordered to be paid to the plaintiff which have not been paid.

**81** I assess aggravated damages against Mohammad Almuslat and Faisal Almuslat in the amount of \$7,500.

**82** I make no finding regarding punitive damages.

**Order**

**83** Judgment is made in favour of the plaintiff as follows:

- a. The defendants are to pay general damages in the amount of \$15,000 jointly and severally.
- b. The defendants, Mohammad Almuslat and Faisal Almuslat are to pay aggravated damages in the amount of \$7,500.

**84** The defendants are to pay costs to the plaintiff. The plaintiff may provide supplemental written submissions for costs by May 23, 2025. The defendant Google may provide written submissions for costs by May 30, 2025.

S. TIMMS DEPUTY J.