



Court File No: CV-20-82717

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

MAXIME BERNIER

Plaintiff

and

**WARREN KINSELLA, DAISY CONSULTING GROUP INC., and DAISY STRATEGY
GROUP LIMITED**

Defendants

FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

Date: February 3, 2020

Issued by "Registrar"

Local registrar

Ottawa Court House
161 Elgin Street
Ottawa, ON K2P 2K1

To: **SHILLERS LLP**
Barristers & Solicitors
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Lawyers for the Defendants

CLAIM

1. The Plaintiff, Maxime Bernier (hereinafter called “**Maxime**” or the “**Plaintiff**” prays for the following relief against Warren Kinsella (hereinafter called “**Kinsella**”), Daisy Strategy Group Ltd. and Daisy Consulting Group (the “**Daisy Group**”), together, the “**Defendants**”:
 - a. A declaration that the Defendants have defamed the Plaintiff;
 - b. Damages for the defamation in the amount of \$250,000, plus an amount to be determined prior to the trial of this action;
 - c. In the alternative, damages for publicity placing a person in a false light in the amount of \$250,000, plus an amount to be determined prior to the trial of this action;
 - d. Punitive and/or aggravated damages in the amount of \$75,000, plus an amount to be determined prior to the trial of this action;
 - e. An Order that the Defendants remove and/or destroy any copy of or reference to the Defamatory Statements (as hereinafter defined) from any source, medium, or place accessible to any third party;
 - f. An Order permanently restraining the Defendants from disseminating, posting on the internet or publishing or broadcasting in any manner whatsoever, either directly or indirectly, any further defamatory statements concerning the Plaintiff;
 - g. Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990 c. C. 43;
 - h. Costs of this action on a substantial indemnity bases, and taxes thereon; and,

- i. Such further and other relief as counsel may advise and this Honourable Court may deem just.

A. THE PARTIES

2. Maxime is an individual resident in Beauce, Quebec. At the material times, Maxime was residing in Ottawa, Ontario. He is a former Member of Parliament, and the founder and leader of the federal political party the People's Party of Canada (hereinafter the "PPC").
3. The Defendant Kinsella is an individual residing in Toronto, Ontario.
4. The Defendant Kinsella is a political operative and a self-acknowledged political agitator, and holds himself out to be a social and news commentator. He owns and runs the Internet website www.warrenkinsella.com (hereinafter the "War Room") and is a prolific poster of Internet blogs.
5. In addition to his purported private social and political commentary, the Defendant Kinsella is the founder and principal of the Defendant Daisy Group, which styles itself as a strategic communications agency.
6. Daisy Consulting Group Inc., is incorporated pursuant to the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16. Daisy Strategic Group Limited is incorporated pursuant to the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16. Both companies are herein after referred to collectively as the "Daisy Group."
7. Through the Daisy Group, the Defendant Kinsella engages in paid partisan political communications and consulting. Their website Daisygroup.ca states that "*Daisy is led by a*

lawyer, former litigator, and law school adjunct professor.” Among other services provided, it offers public and government relations services.

8. Kinsella is an officer, director, principal, directing mind and/or agent of the Daisy Group entities. The Daisy Group is liable in law for Kinsella’s wrongful acts.
9. The Defendant Kinsella further records and posts podcast episodes for a podcast entitled “Kinsellacast,” accessible on the War Room blog and also at www.kinsellacast.libsyn.com.
10. The Defendant Kinsella frequently makes public, untruthful and malicious statements about Maxime.
11. At all material times, the Defendants were not acting in the capacity as a Broadcaster as defined in the *Libel and Slander Act*, R.S.O. 1190, c. L. 12.

B. BACKGROUND AND PROJECT CACTUS

12. In or about August, 2018, Maxime left the Conservative Party of Canada (hereinafter the “CPC”), founded the PPC and began campaigning for the upcoming 2019 federal election campaign.
13. Prior to the federal election of October 21, 2019, Maxime and the PPC were viewed by the media, political commentators, and evidently by the CPC, as a threat to the CPC’s chances for electoral success.
14. The CPC retained Kinsella and the Daisy Group in advance of the federal election to perform strategic communications, political messaging, and partisan attacks in order to lower

Canadians' estimation of Maxime and the PPC, and thereby mitigate Maxime's perceived threat to the CPC's electoral success in the federal election.

15. The internal Daisy Group name for the retainer was Project Cactus (hereinafter the "**Retainer**" or "**Project Cactus**"). Retainer of Project Cactus was an intentional and malicious campaign orchestrated by the Defendants to defame the Plaintiff in the eyes of Canadians for a direct financial benefit.

16. A staffer recorded the Defendant Kinsella at a Daisy Group staff meeting on May 16, 2020.

The recording found at <https://www.cbc.ca/player/play/1649384515914/> and <https://www.cbc.ca/player/play/1649407043619/> is transcribed in the herein pleading at Schedule "A". Kinsella stated that the malicious purpose of the campaign against Maxime was to:

- a. *"...go and be nasty, be mean, get me content. I'm leaving this afternoon, all of you are ordered to be here early tomorrow. Okay? But this War Room stuff continues on the weekend. If you see somebody stumble on the weekend, your job is to come down from the hills with your gun and shoot them. That's what you do."*;
- b. *"So I want the hatred you have for Maxime Bernier to wash over you as a purifying force."*;
- c. *"There's nobody in the county doing what we're doing to Max Bernier. There's nobody else doing it. It's the people in this room. So do it"*;
- d. *"We are the War Room Company, we have to start acting like one. Okay? We've got to.; and,*

e. *“But Hamish and Walsh are going to say on Cactus what are these guys doing for us?”*.

17. Kinsella told staff that “Hamish and Walsh” will start to ask what Daisy Group is delivering on Project Cactus if they don’t start “spilling some blood.” Kinsella refers again to “Hamish and Walsh” in a separate meeting discussing Project Cactus on May 30, 2020.

18. At all material times, Hamish Marshall was the CPC’s 2019 federal election campaign manager.

19. At all material times, John Walsh was the former president of the CPC and was a co-chair of the election campaign.

20. Tweets attacking Bernier specifically on a Twitter account called STAMPtogether run by Daisy stopped on June 29, 2019 one day before the pre-writ period and spending limits came into force. Specifically, STAMPtogether twitted the following:

- **May 22, 2019** – *“@MaximeBernier’s #PPC is failing, not least because of its constant promotion of #racism, #antisemitism, and anti-#lgbt rhetoric. So why pay attention? Because the @peoplespca spewing hate emboldens other extremists to come out of the woodwork. #cdnpoli”*;
- **May 24, 2019** – *“@MaximeBernier and the #PPC constantly use the #antiSemitic slurs “globalist” and globalism”. Their pushing white supremacy into #cdnpoli is completely unacceptable.”*

- **May 24, 2019** – *“Why is @MaximeBernier so anxious to court racist, anti-immigrant, anti-LGBT votes? There are a frightening amount of photos of him with people who’ve done and said horrible things who he’s refused to disavow. #ppc #cdnpoli”*;
- **May 30, 2019** – *“Not even Donald Trump is advocating what @MaximeBernier wants for immigration. Trump cites Canada as an example for the US, while Bernier advocates reduction in immigration while using #racist dog whistles. Is Bernier more extreme than Trump? #cdnpoli #PPC”*;
- **May 31, 2019** – *“The #PPC emails I question have leaked. It’s not pretty. This is the #racism that animates @MaximeBernier’s movement. #cdnpoli”*;
- **June 5, 2019** – *“Canadians must not normalize the dangerous #racism of @MaximeBernier’s #PPC. Here, an official riding association shares #racist pseudoscience. @BurlingtonPPC has now made their account private to continue spewing hate. #cdnpoli”*;
- **June 13, 2019** – *“Approved #PPC2019 candidate RTs that people born outside of Canada should be barred from politics. Does @MaximeBernier’s version of “freedom” exclude all immigrants and refugees from public office? Canadians welcome immigrants and refugees and reject @peoplespca bigotry”*;
- **June 14, 2019** – *“How many times do concerned citizens have to tell @maximebernier that “globalist” is an anti-Semitic slur before he stops hurling it at anyone who disagrees with him? #cdnpoli #PPC”*;

- **June 15, 2019** – *“More #antiSemitism from the #PPC. “Globalist” is the alt-right code word for “Jew. @MaximeBernier’s party has serious problems. #cdnpoli”*; and,
- **June 16, 2019** – *“The #PPC is the only party in Canada whose messaging consists of a constant stream of #racist conspiracy theories and #antiSemitic tropes, like the frequently-repeated “globalist” slur. #cdnpoli @LukeTQuinlan”*.

21. Under new election rules, any group that spent at least \$500 on election advertising during the pre-writ period was required to register with Elections Canada as a third-party advertiser.
22. Coincidentally or not, the Retainer to smear Maxime seems to have aligned with Kinsella’s own partisan leanings.
23. The Plaintiff states that the Defendant Kinsella was, at all material times, engaging in malicious personal and paid partisan attacks as the agent, principal, directing mind, and/or director of the Daisy Group entities.

C. SUSTAINED CAMPAIGN OF DEFAMATION

24. Whether in furtherance of his retainer with the CPC or arising from his own personal animus toward Maxime, Kinsella, through or in conjunction with the Daisy Group, engaged in a sustained campaign to savage Maxime’s reputation by accusing Maxime of being, *inter alia*, a racist, bigot and/or Gauleiter, a regional Nazi boss during Hitler’s rise to power and until the fall of the Third Reich.
25. The Defendant Kinsella’s communications were highly defamatory of Maxime. The Defendants Kinsella and the Daisy Group orchestrated and carried out a smear campaign, the

purpose of which was to harm Maxime’s reputation. The statements included untrue statements of fact, were malicious, reckless, false, and not based in fact (hereinafter referred to as the “**Defamatory Statements**”).

26. The Defamatory Statements include, but are not limited to, the following:

- a. On or about February 23, 2019, Kinsella posted a blog article entitled “*Is Maxime Bernier a Racist?*” to the War Room, in which Kinsella stated that “*Max Bernier—because of the words he chooses, and those with whom he chooses to associate himself – is now undisputedly piloting the same dark waters previously charted by the likes of Donald Trump and David Duke*”; Kinsella further stated that Bernier “*is a telegenic bigot who panders to the worst of people*” and that “[b]y his words, and by his deeds, we all know who Maxime Bernier is”;
- b. On or about May 10, 2019, Kinsella posted a blog article to War Room entitled “*The Grand Wizard elicits a response,*” in which Kinsella reposted an image of a Twitter post, authored by Kinsella, replying to a Tweet by Maxime. Kinsella’s Tweet contained the following caption, authored by Kinsella: “*Because they were sent a photo of you at a cross burning, again?*”;
- c. On or about May 10, 2019, Kinsella posted a reply on Twitter to a post by Maxime. In his reply, Kinsella stated, referring to Maxime, “*You’re a bigot.*”;
- d. During a meeting at Daisy Group offices on or about May 16, 2019, stated to his staffers in reference to Maxime, “*We actually have a white supremacist trying to become prime minister of Canada. I’ve run campaigns depicting Preston Manning, Stockwell Day, Kim*

Campbell, depicting them as racists. None of them were. But I was successful at depicting them as racists. This guy actually is a racist. Okay? So it's low-hanging fruit."

- e. On or about June 4, 2019, Kinsella posted a blog entitled "*Actually, Maxime, there is only one federal party leader who sounds like a white supremacist who hates women.*"
- f. On or about June 26, 2019, Kinsella posted a reply on Twitter to a post by Maxime. In his reply, Kinsella stated, referring to Maxime, "*But you are a racist. You are. And that will be your legacy and your downfall.*";
- g. On or about July 29, 2019, Kinsella posted a blog article entitled "*Bernier and his infamous neo-Nazi friend*" to the War Room, in which Kinsella misleadingly and deliberately posted a photograph showing Maxime at an election campaign event.
 - a. The campaign event in question took place in a hotel lobby, where Maxime greeted and posed for pictures with dozens or hundreds of attendees. The other individual in the photograph is apparently Paul Fromme, a white supremacist. Maxime had never met this individual before, and did not know his identity when the picture was taken;
 - b. Kinsella deliberately and misleadingly stated in the blog post that Maxime was friends with a neo-Nazi. As a person steeped in political campaigns, Kinsella is well aware of the true context of the photograph, and chose instead to deliberately misstate what the photograph depicts;
 - c. In the same blog post, Kinsella stated that Maxime is "*the leader of the alt-right White People's Party,*" and "*fully crossed the Rubicon...Consorting with the*

undisputed leader of Canada's white supremacist movement... In his words and his deeds, Maxime Bernier has shown who he is. We need to start believing him.”;

- h. On or about July 29, 2019, Kinsella posted a message on Twitter, linking to the above War Room article, and further posted, “*MAXIME BERNIER AND HIS WHITE SUPREMACIST FRIEND. Want to oppose a conservative leader who cavorts with neo-Nazis? Look no further.*”
- i. On or about August 29, 2019, Kinsella replied to a Twitter post by Maxime. In his reply, Kinsella stated the following: “*I think you are a racist enabler.*”;
- j. On or about September 2, 2019, Kinsella placed the following message on Twitter: “*Next time a Canadian criticizes Americans for normalizing @realDonaldTrump's racism, extremism and bigotry, I'll offer two words: "@MaximeBernier."* In his reply Twitter post, Kinsella stated, “*BECAUSE HE IS A RACIST*”;
- k. On or about September 9, 2019, Kinsella replied to a Twitter post by the Toronto Star, wherein the Toronto Star stated that “*Ignored by a child, climate crusader after his most provocative outburst, the People's Party of Canada is left gasping for political oxygen.*”

In his reply Twitter post, Kinsella stated: “*BECAUSE HE IS A RACIST*”;
- l. On or about September 28, 2019, Kinsella replied to a Twitter post by Maxime. In his reply, Kinsella stated the following: “*Piss off, you racist jackass #elxn43 #cdnpoli*”;
- m. On or about October 7, 2019, Kinsella posted the following message on Twitter: “*Everyone be sure to check out Bernier's post-debate cross-burning party!*”

- n. On or about October 19, 2019, Kinsella posted a blog article in the War Room, in which Kinsella stated that Maxime was “*indisputably racist*” and “*a bigot,*” and associated with “*anti-Semitic and homophobe member*”;
- o. On or about October 25, 2019, in a podcast entitled “*Kinsellacast 85*” posted to the War Room, Kinsella stated that “*research conducted by B’nai B’rith of Canada, the Canada Anti-The Network, and others shows beyond a doubt that Bernier is de-facto leader of Canada’s Alt-Right movement. He’s David Duke North.*”;
- p. On or about November 25, 2019, Kinsella posted a blog article to the War Room, in which he stated that “*I have proudly been exposing and opposing racism for more than 30 years. As a political assistant in 1990, I documented known racists joining Preston Manning’s Reform Party. In 1993, I documented Kim Campbell’s inadequate response to the presence of actual neo-Nazi’s in the Canadian Airborne Regiment. In 2000, as a political advisor, I documented the presence of known racists in Stockwell Day’s Canadian Alliance. After lots of research, I concluded none of the leaders were in any way racist. However, their parties had a problem in those days, which was well-known. But the extremism found in the People’s Party is far worse, and far more pervasive, than anything I experienced before. We were, and we are, very proud to shine a light on the extremism found in the People’s Party of Canada.*”;
- q. In a Facebook post published on June 19, 2019, Kinsella called Maxime a “*Gauleiter.*” A Gauleiter was a regional Nazi boss during Hitler’s rise to power and until the fall of the Third Reich. It was not a term used in Germany before or after the Nazis;

- r. Kinsella, who has sole control over the comments posted on the War Room site, and approves each comment before they are posted, published a comment by “Edw” on February 24, 2019, which states: *“Bernier does not have traditional Conservative or conservative values. The old Progressive Conservatives did things like fight apartheid. Even Harper’s Conservatives didn’t act on their worst instincts on diversity. Bernier by contrast is an underpowered intellectual wanna-be who has callously seized upon garbage ideas to try to generate headlines and still a portion of the Conservative base. He will fail because most Canadians aren’t racists.”*;
- s. On February 13, 2019, Kinsella approved and posted this statement by “Jack” to the War Room web site: *“Lest we forget this former biker groupie douchebag was only a nose hair away from leading the CPC into the 2019 election. 49.05 of the Conservative Party were willing to put this guy up for the role of PM.”*;
- t. On February 24, 2019, Kinsella approved and published a comment by “Miles Lunn” onto the War Room web site which stated: *“certainly he (Maxime) has no problem with people who are racists and that is a problem. Simply not being a racist yourself is not good enough, one needs to have no tolerance for those who are racist rather than see them as having legitimate opinions.”*;
- u. On February 13, 2019, Kinsella approved and published this statement by “Bill Malcolm”: *“Bernier comes across as a dimwitted, somewhat moronic version of Farage and his UKIP in the UK. So dimwitted is our Maxime he cannot understand what he doesn’t understand in the first place. And his personal cluelessness is infamous – “Oh my girlfriend has my cabinet notes. I think. Now where did I put them?” A dumbass bigot –*

the worst kind – unable to comprehend much beyond some vague notion about something or another about “foreigners” and whatever it is, he doesn’t like it. He cannot even figure out when he’s lost an argument, so tiny is his intellect. What that says about his supporters is troubling – shall we merely say that none are ever likely to win a Nobel prize.”;

- v. On July 29, 2019, Kinsella approved and published this statement by “Dennis” on the War Room web site: *“Bernier or Maxi Pad as I call him couldn’t attack or support people any worse for his party... he also did a photo opp with a white nationalist group but told them to cover up their shirts... the Pad didn’t realize they would post the pics on there fb page with the complete story...”*
- w. On July 29, 2019, Kinsella approved and published a post by “Dennis Doerksen” that stated: *“He is such a failure morally and politically.”*; and,
- x. There may be other Kinsella-published posts, or posts published by Daisy Group, that are unknown to the Plaintiff at the time of the filing of this claim.

27. At no time did Kinsella take any steps or engage in reasonable due diligence to determine the veracity of the comments when making the above noted defamatory statements.

28. The Defamatory Statements contain false, harassing, defamatory, malicious, egregious and scandalous statements about Maxime. The words in their natural and ordinary meaning, or by virtue of surrounding circumstances which give the words a defamatory meaning, or by innuendo, meant and were understood to mean the following:

- a. that Maxime is racist;

- b. that Maxime is an anti-Semite;
- c. that Maxime is a Holocaust denier;
- d. that Maxime is homophobic;
- e. that Maxime is a white supremacist;
- f. that Maxime hates women;
- g. that Maxime is a bigot;
- h. that Maxime is a member of a racist organization;
- i. that Maxime knowingly associates with racist persons or organizations;
- j. that Maxime is a Nazi, literally a member of a Nazi organization, and/or a member of a neo-Nazi group;
- k. that Maxime is associated and/or a friend with, or equivalent to, David Duke (a notorious American neo-Nazi, white supremacist, anti-Semite, and former member of the Ku Klux Klan) and/or Paul Fromme;
- l. that Maxime is a member of, or associated with, the Ku Klux Klan; and,
- m. that Maxime incites hate, racism, homophobia, misogyny and bigotry.

29. The contents of the Defamatory Statements are defamatory in nature and have caused or will cause damage to Maxime, both professionally and personally.

30. Kinsella falsely and maliciously published the Defamatory Statements knowing that:

- a. the statements would be widely disseminated;
- b. they were untrue;
- c. they would injure the reputation of Maxime; and
- d. for personal and monetary gain.

31. Specifically, the Defamatory Statements were maliciously calculated to disparage Maxime in the minds of right-thinking persons generally, mischaracterize or fabricate Maxime's statements, views, and beliefs, and impugn Maxime's character, integrity and judgment.

32. While denying that any of the Defamatory Statements constitute a publication or broadcast from a station in Ontario, out of an abundance of caution, Maxime served a Notice of Libel on December 9, 2019.

33. In response to this Notice of Libel, Kinsella publicly refused to apologize for his statements.

D. FALSE LIGHT AND INVASION OF PRIVACY

34. Kinsella knowingly, with the intention to cause harm, and without lawful justification placed Maxime in false light by publicly making each and every statement as detailed in paragraph 24 herein above, with the meanings as pleaded in paragraph 25 herein above.

35. Kinsella's statements placed Maxime in a false light, given that they accuse Maxime of *inter alia*, sexism, bigotry, racism, homophobia, white supremacy, Holocaust denial, membership in a racist organization, and other beliefs widely and rightfully denounced by Canadian society.

36. In particular, Kinsella's false statements as detailed in paragraph 25(j) and (k) herein above, to the effect that Maxime knowingly associated with, and was a friend of, an "infamous neo-Nazi," was deliberately misleading and a public misrepresentation of both the context of the photograph and of Maxime's beliefs and associations.
37. A reasonable person would find it highly offensive to be publicly misrepresented by the false statements as detailed in paragraph 24, herein above.
38. Kinsella either knew that his numerous statements (as detailed in paragraph 24 herein above) were false, or acted in reckless disregard of the falsity of the statements. Kinsella knew, or should have known, that the effect would be to place Maxime in a false light.
39. As such, Kinsella is liable for the torts of invasion of privacy and publicly placing Maxime in a false light.

E. MALICE AND PUNITIVE DAMAGES

40. As described in the May 16, 2019 Daisy Group transcript, Kinsella himself has acknowledged that his campaign of defamation was designed to damage Maxime's reputation and cause harm.
41. During a meeting at Daisy Group offices on or about May 16, 2019, Kinsella revealed that the true purpose of Project Cactus and his statements regarding Maxime were to injure Maxime. During this meeting, Kinsella stated that:
- a. *"We actually have a white supremacist trying to become prime minister of Canada. I've run campaigns depicting Preston Manning, Stockwell Day, Kim Campbell, depicting them*

as racists. None of them were. But I was successful at depicting them as racists. This guy actually is a racist. Okay? So it's low-hanging fruit."

- b. Maxime is a racist;
 - c. Maxime is a white supremacist;
 - d. *"I want the hatred you have for Maxime Bernier to wash over you as a purifying force"*;
 - e. *"There's nobody in the country doing what we're doing to Max Bernier"*;
 - f. That he expected his staff to achieve results in besmirching Maxime's reputation, or, in Kinsella's words, *"spill some blood"*; and
 - g. That achieving results with Project Cactus was a top priority: *"All of you are capable of doing it but I need somebody who doesn't sleep, basically."*
42. According to news reports, internal Daisy Group documents state that the purpose of Project Cactus was to *"seek and destroy"* Maxime's reputation and reduce his electability.
43. Kinsella and Daisy Group were clearly self-declared that they were motivated by malice towards and an intention to cause harm to Maxime, to discredit his reputation, and to hold him up to public scandal, ridicule and contempt.
44. The Defamatory Statements were made in bad faith, with the knowledge that they were false, or with reckless disregard for their truth or falsity.
45. On the basis of the above-noted facts, Maxime relies on actual and implied malice in that Kinsella's actions were for an improper purpose and ulterior motive, namely to attack, injure

and discredit Maxime for personal, financial and political gain.

46. To date, neither Kinsella nor the Daisy Group has apologized to Maxime, corrected or retracted the Defamatory Statements, nor deleted the Defamatory Statements from the Internet.

47. Kinsella himself claims that his campaign of defamation against Maxime was successful. Maxime agrees that it was successful, in that the Defamatory Statements had the intended effect of reducing his reputation in the eyes of Canadians.

48. As a consequence of the campaign of defamation undertaken by the Defendants, Maxime's reputation has been seriously damaged, he has been held up to public scandal, ridicule and contempt, and he has suffered distress and embarrassment.

49. The Defamatory Statements are harmful to Maxime because, as a public figure dedicated to public service, Maxime's reputation is extremely important to him. The Defamatory Statements deliberately, and for an ulterior purpose, misconstrued and cast in a false light Maxime's actual statements and policies.

50. The Defamatory Statements furthered a false narrative regarding Maxime's statements, policies, beliefs, and personal character. The Defamatory Statements forced Maxime to expend time and energy defending against unfounded and malicious smears.

51. The impact of the Defamatory Statements is exacerbated by the fact that Kinsella has substantial personal and Daisy Group platforms, and is followed by journalists, politicians and members of the public. Kinsella's twitter account, @kinsellawarren, is followed by 41,000 people. The War Room blog, according to a post thereon authored by Kinsella,

receives three million visits per year. Some blog posts containing the Defamatory Statements have dozens of reader comments.

52. Kinsella has encouraged the republication of, and commenting upon, the Defamatory Statements by third parties. Kinsella has sole control over comments on the War Room web page, and personally approved the posting of defamatory comments by third parties.

53. Kinsella knew or ought to have known that the republication of the Defamatory Statements and commenting on them would occur thereby causing further damage to Maxime.

54. Kinsella knew or ought to have known that commenting and republication would be the natural and probable result of making the Defamatory Statements. Maxime claims damages for the republication and comments, whether they were approved and posted on the War Room web page by Kinsella, or on other web sites by other parties, based upon the Defamatory Statements.

55. The full extent of the publication of the Defamatory Statements is known only to Kinsella and the Daisy Group.

56. As a result, the Defamatory Statements have been disseminated to, at least, thousands of people.

57. Based on the above, this is an appropriate case for punitive and/or aggravated damages.

58. Maxime pleads and relies upon the *Libel and Slander Act*, R.S.O. 1990, c.L. 12, as amended.

Disposition

59. Wherefore, Maxime repeats his prayer for relief, above.

60. Maxime proposes that this action be tried in Ottawa.

Date of Issue: ~~February 3, 2020~~
September 21, 2020

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Schedule "A"

TRANSCRIPT OF AN AUDIO RECORDING
OF WARREN KINSELLA

Official Court Reporters:

Steno CAT Reporting Services
275 Slater, Suite 1400, K2P 5A6
per: M. Bolduc, C.C.R.
Telephone: (613) 355-0807
e-mail: stenocat@sympatico.ca

-- Beginning of audio

MR. KINSELLA: ...go and be nasty, be mean, get me content. I'm leaving this afternoon, all of you are ordered to be here early tomorrow. Okay?

But, this War Room continues on the weekend. If you see somebody stumble on the weekend, your job is to come down from the hills with your gun and shoot them. That's what you do.

So I want the hatred you have for Maxime Bernier to wash over you as a purifying force.

There's nobody in the country doing what we're doing to Max Bernier. There's nobody else doing it. It's the people in this room. So do it.

We are the War Room Company, we have to start acting like one. Okay? We've got to.

At some point Hamish, I let him know last night, that I'm not going to be able to check in today. But Hamish and Walsh are going to say on Cactus what are these guys doing for us?

-- End of Audio Recording

MAXIME BERNIER

-and-

WARREN KINSELLA et al

Plaintiff

Defendants

Court File No.: CV-20-82717

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Ottawa

FRESH AS AMENDED STATEMENT OF CLAIM

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Lawyer for the Plaintiff

AMENDED THIS ...24th... DAY / JOUR
MODIFIÉE DE

OF / DE September 20..20..

PURSUANT TO RULE 26.02 (A)
CONFORMÉMENT A LA REGLE

OR ORDER
OU A L'ORDONNANCE

DATED THIS / FAIT CE

DAY / JOUR OF / DE 20.....

REGISTRAR, SUPERIOR COURT OF JUSTICE
GREFFIER, COUR SUPÉRIEURE DE JUSTICE

